EXHIBIT D

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 2 of 156 PageID #: 5649

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FO (Confidential, Pre-decisional Information)	RM U.S. Department of Labor Mine Safety and Health Administration
MINE ID 46-08436 MSI	HA OFFICE MT Hope
411 To Control of the	- Soort4
COMPANY NAME PERFORMANCE COAL COM	Middle Park No
Citation/Order No. 7279742	0ate 3/11/07
Charles 1907	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury?	YES NO If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
1. Did the condition or practice clied create the presence of a high degree of	risk to the health and/or safety of miners? Yes 🗹 No 🗌
a) Who was exposed to the hazard? (Name and Occupation)	
DAKEY COOK - EXCHNING ; CONTINUOU MIN	or Openator, SHOTTLE CAN OPENATION, Roof Botter openato
b) How were they exposed to the hazard? Two Courses on	wer was preparing to move note the worl
c) When and over what period of time did the exposure occur? — Tue	CK EXISTED WITH NO SUPPLEMENTAL SUPPORT
c) while used over what beyon outside plot the exposure occur.	
d) Is this first hand information? Yes No No No No No No No No No N	
Did the operator or agent have actual knowledge, or reason to know, of the Who had this knowledge? (Name and Title)	he facts or conditions constituting the violation? Yes No
	examinations had been conducted prior
to the Day SHIPT. THOSE CONDITIONS U	sere abouts to the most cusual observer
c) is this first hand information? Yes Mo	
3. Any other pertinent information: THE OPENATOR STRIP	D THAT THE SURPACE CARCK HAD BORTO
	leand in the Dreamer Examinate BOOK
And WAS SIGNED BY THE PIE-SHIE	
INSPECTOR'S CONCLUSION:	
	willful violation of the Act or mandatory health or safety standard? Yes TNo □
Inspector AR Number: 24329 Signature:	Date: 3-11-08
	lo 🗆
Signature: R. D. P. D.	Date: 3 - 11-08
POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further	cartion It
Assistant District Manager: Recommendation: 6 (A or C from the	
Signature: Sured L.D.	Date: 3-14-08
	The second secon
Circulations 1 5 / 15	m the list above) Date: 3/2/2/
	vale: If for
District Manager: Action Secision: Signature: Action Secision: Action Section:	Date: 3/12/08
ADDITIONAL COMMENTS OR REMARKS:	
Experience of the second secon	
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
	ক্ষাৰ ১৯৯১ চনত ১৮ জন্ম বিশ্ব বিশ্ব ক্ষাৰ ১০০ ১ কিন্তু ক্ষাৰ হৈছে হা <mark>লাগৈ সংগ্ৰহণ কৰে কৰে কৰে কৰে কৰে কৰ</mark> ে ।

Investigator Assigned

3-10-08	ŀ
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11.	,,,	111 1		

U.S. Department of Labor
Mine Safety and Health Administration

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<u>ann an deile an aige</u> an a-glacht a -f haite in an an aige ann an an an an an aige an air an air an aige an aige	Wille-Salety and Fleating Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock)	3. Citation/ 7279742
03/07/2008 0815	
4. Served To	5. Operator PERFORMANCE COAL COMPANY
Rick Hodge; Superintendant	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition of Practice	8a, Written Notice (103g)
The operator failed to follow the appro	
District Manager, on the No. 2 section	
entry. There were two holts in the No.	
equipment. One bolt was pulled away fro	
plate was not firm against the top. The	
the mine roof. This condition exposed a	
	Also, 10 feet away from the No. 2 face
was a surface crack in the mine roof th	
	. These conditions were not recorded in
the pre-shift examiners book, nor was t	
expose miners to the hazards related to	
	See Continuation Form (MSHA Form 7000-3a)
	art/Section of tle 30 CFR 75.220(a)(1)
Safety of Act Ti	lle 30 CFR 75.220(a)(1)
Section It-Inspector's Evaluation	
10. Gravity:	
A Injury or Illness (has) (is): No Likelihood Unlikely	Reasonably Likely Highly Likely Occurred
B. Injury or Illness could reasonably be expected to be: No Lost Workdays Lost Workday	ys Or Restricted Duty ☐ Permanently Disabiling ☐ Fatal ✔
6 Star Country and the second	THE MEAN CONTRACTOR OF THE PROPERTY OF
C. Significant and Substantial: Yes . No .	D. Number of Persons Affected: 001
11. Negligence (check one) A. None B. Low C. Mo	derate D. High 🗹 E. Reckless Disregard 🗌
12. Type of Action 104(d)(1) 13. Type of Issua	nce (check one) Citation ☑ Order ☐ Safeguard ☐
14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice	E. Citation/ F. Dated Mo Da Yr Order Number
15. Area or Equipment	
	(1
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Closk)	1000
Section III-Termination Action	
17. Action to Terminate The No. 2 entry was re-bol	ted and supplemental roof support was
added.	
18. Terminated A. Date Mo Da Yr 03/07/2008 B. Time (24 Hr. Clock 0)	30
Section IV—Automated System Data	
19. Type of inspection (activity code) 20. Eyenf Number 4120607	21. Primary or Mill
22, Signature	23, AR Number 34220
green Lignor	24325
MSHA Form 7000-3, Mar 85 (revised) baccordance with the provisions of the Small Bu	siness Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has onal Fairness Boards to receive comments from small businesses about federal agency

MSRA Form 7000-3, Mar 85 (revised) GAccordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small business so small business. If you wish to comment on the enforcement actions of MSRA, you may call 1-888-REG-FAIR (1-888-734-3247), of write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2129, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest cliations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEV Confidential, Pre-decisional Information)	VIII O NIII	U.S. Departme Mine Safety and	Health Administra	tion 🦃
MINEID 46-08436	MSHA OFFICE	MT HOPE	·	
MINENAME UPPER BIG Branca	<u></u>		eterkit	en e
COMPANY NAME PERFORMANICE COOL CO	mpany			
itation/Order No. 72.79743	Date	3-11-07		······································
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury	? YES	NO E	If yes: Fatal?	Non-fatal?
REVIEW CRITERIA: (Altach supplemental information if needed)	-	•		
Did the condition or practice cited create the presence of a high dec a) Who was exposed to the hazard? (Name and Occupation)	gree of risk to the hea	th and/or safety of mi	iers? Yes	No.
Examiner, Roof Bo ITTN DOSNATIONS b) How were they exposed to the hazard? And Area of a Sunface Creek Did Not HA c) When and over what period of time did the exposure occur? Sufake the clay that. d) Is this first hand information? Yes No	THE MINE I	lorg uni mo. Upplemental	fully Sup, Suppost	soped an
If not, who provided the information? (Name and Occupation)	in atthe faite accord	ilitaan samatta dii atab	المتعاد وساعدا	
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) Love Favo b) How was this knowledge evidenced? No. 2 Extry: c) Is this first hand information? Yes No	ner - Examiner	DHANY MC	Kimacy - Excu	ninen
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) **LOWER THE COMMENT OF THE	ser-Examina 15 Amd Ivi	Sourcy Mo 1948 to 1948	Kimpey - Excu WOMLING EA	ninen co of the
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) **LOWED TOWN TOWN OF THE AND THE STATES AN	ne - Examina 13. Amd Iwi 14. Amina) 14. Amina) 14. Amina)	Johnny Mc 1968 in 1978 en 3/6/08/ 1, 30101961	Kimpey - Excup wouldng th amplitus th well two the	niver CC & the =-Shiff awarq
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) **COMP EMADE: TOWN OF THE NO. Z. ENTRY: c) Is this first hand information? Yes **INO** If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: THE MEM MAS IN CHARGE OF THE SUMPLES CHARK	ne - Examina 13 Amd Iwi 157 Mined 157 Mined 14155, Thios Anicl LiAnn	Johnny Mc 1966 no the on 3/6/08/ 1870 nace I	Kimpey-Excu wouldng th amplowed Dr wew it too know Kimy:	nimen CC & the =-Shiff ususing Dovby
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) **COMP EMADE: TOWN OF THE NO. Z. ENTRY: c) Is this first hand information? Yes **No ** If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: THE MEM WAS CARRESTED OF THE SUMPLES CHARKE. NSPECTOR'S CONCLUSION:	ne - Examina 13 Amd Iwi 157 Mined 157 Mined 14155, Timos Anucl LuAnn	Johnny Mc 1966 no the on 3/6/08/ 1870 nace I	Empley - Excup Would The Da Omel The THE Lines King: The State of Safety stand	nimer CC & the e-shift usuang Dovby
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) Howe Philes to How Was this knowledge evidenced? b) How was this knowledge evidenced? C) Is this first hand information? Yes No ((Name and Occupation)) If not, who provided the information? (Name and Occupation) Any other pertinent information: CKAMINATIONS WAS CAUCICLES (NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing a	ner - Examinar The Amel Tavi AST Miner AS	Johnny Mc 1966 no the on 3/6/08/ 1870 nace I	Empley - Excup Proporting EA Cond to a Do	namen CC = g the =-Shift addicing Doubly
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) Howy Employ to how was this knowledge evidenced? Dottes, the No. 2 Entry: c) Is this first hand information? Yes No. 10 No. 11 No. 11 No. 12 No. 12 No. 12 No. 12 No. 13 Any other pertinent information? (Name and Occupation) 13 Any other pertinent information: The Angular was called the information was called the information was called the information? The Angular was c	nei - Ekanina T Amd Tavi 15T Minich DATES, TIMES Amel LuAnn andler willful violation	Johnny Mc 1966 no the on 3/6/08/ 1870 nace I	Empley - Excup Proporting EA Cond to a Do	nainen CC = 8 + 4.0 =- Shiff adaucing Dov By, lard? Yes No 3-11-08
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) Howey Physical Process of the Information? (Name and Occupation) If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: **CHAMICANTINIS WEEK CONCLUSION:* **Based on this review, does this appear to be a possible knowing a Inspector AR Number: 2452 9 Signature: **Supervisor: Do you agree with the inspector's conclusion? Yes Management of the Process of the Inspector's conclusion? Yes Management of the Inspector	ner - Examinar The Amel Tavi AST Microsol Astes, Tanos Anucl LuAna and/or willful violation No []	Johnny Mc 1966 no the on 3/6/08/ 1870 nace I	Empley - Excup Proporting EA Cond to a Do	nainer CC of the -Shift addicing Doubly lard? Yes No D 3-11-08
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) **Court **Provided the information? **Provided the information? (Name and Occupation) **3. Any other pertinent information: **THE AND MAS CARRED ** THE SURFICE CARRED *** CARRED *** Signature: **Supervisor: Do you agree with the inspector's conclusion? Yes *** Signature: *** Signature: *** Conduct a special investigation. ** **POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. *** Carred *** Car	ne - Examina The Amel Tavi 15The Mines And Luden and/or willful violation No El	JOHNNY MC 1045 W THE 100 3/6/08/ 100 104/08/ 101 March 104/08/ 101	Empley - Except Ample Tour Pr Lieu - THE Axes King y health or safety stand Date:	nimen CC & the =-Shiff advicing Dow By, lard? Yes Y No 3-11-08
2. Did the operator or agent have actual knowledge, or reason to know a) Who had this knowledge? (Name and Title) Howey Parks b) How was this knowledge evidenced? Dates, the No. 2 Evity: c) Is this first hand information? Yes W No I if not, who provided the information? (Name and Occupation). 3. Any other pertinent information: The Mexical Mas Language And Sunface Conducted. I Pace Are Mas Language. NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing a Inspector AR Number: 2452 9 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes W Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No Assistant District Manager: Recommendation: (A or C fro Signature:	And Zavi And Zavi And Zavi Artes, Times And Luxua andler willful violation No [] further action. [] im the list above	JOHNNY MC 1045 W THE 100 3/6/08/ 100 104/08/ 101 March 104/08/ 101	Empley - Except Continue - Exce	nimen CC & the =-Shiff advicing Dow By, lard? Yes Y No 3-11-08

Investigator Assigned ID No.

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U.S. Department of Labor Mine Safety and Health Administration

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Kanal	v	11	<i></i>

			Mine Safety and H	ealth Administration	
Section I-Viol	ation Data	,			en ment i die der versiche der vergeppip Notes auch der
1. Date	Mo Da Yr 03/07/2008	2. Time (24 Hr. Clock) 0816	Anna de des	3. Citation/ Order Number 7	279743
4. Served To			5. Operator		
Rick Hod	ge; Superintenda	nt	PERFORMANCE	COAL COMPANY	
	IG BRANCH M	INE-SOUTH	7. Mine 1D 46-08		(Contractor)
8. Condition	or Practice			8a.	Written Notice (103g)
bolts roof s been s the mi suppor	that had be that the heared off ne roof ex t. These c	or recorded in the een damaged by equipment for the record plate was not flush with the mine tending the entire conditions were obvious related to falls of	oment. One was p firm against the roof. Also, the width of the ent ous to the most	oulled away from the top. The oth tere was a surfary with no supcasual observe	om the mine her bolt had lace crack in oplemental
tur er				See Continuation For	rm (MSHA Form 7000-3a)
9. Violation	A. Health ☐ Safety ✔ Other	B. Section of Act	C. Part/Section of Title 30 CFR	75,360(6)(3)	
	pector's Evaluation				
10. Gravity:	* **	e year of the control			
A. Injury	or iliness (has) (is):	No Likelihood Unlikely	Reasonably Likely 🔽	Highly Likely	Occurred [
	or iliness could rea- y be expected to be:	No Lost Workdays 🔲 Lost I	Norkdays Or Restricted Duty [Permanently Disablin	ig ☐ Fatal ☑

3				····		
10. Gravity: A. Injury or Illness (has) (is): No Likelihood ☐ Un	likely Re	asonably Likely		Highly Likely) Occum	ed [**]
			4 2 4	regard emission is	1	44:C
B. Injury or illness could reasonably be expected to be: No Lost Workdays	Lost Workdays	Or Restricted Du	uty 🔲	Permanently D	Disabling 🔲	Fatal 🗸
C. Significant and Substantial: Yes 🗹 No 🗌	- Lander Communication (Action Communication)			D, Number of Pe	rsons Affected:	001
11. Negligence (check one) A. None B. Low	☐ C. Mode	rate 🔲 🔠	D. High 5	Z E. Re	eckless Disrega	rd 🗍
12. Type of Action 104(d)(1)	3. Type of Issuance	(check one)	Cit	ation 🔲 🔻 Ò	rder 🗸	Safeguard 🗌
14, Initial Action A. Citation ☑ B. Order ☐ C. Safeguard ☐ D. Writte		Citation/ Order Number	72	<i>1</i> 9742	F. Dated	Mo Da Yr 03/07/2008
15. Area or Equipment The 041 MMU.						
	(24 Hr. Clock)					
Section III. Termination Action						
17. Action to Terminate The section was exentry was re-bolted and supplement					Also, th	ne No. 2
18. Terminated A. Date Mo.Da Yr 03/07/2008 B. Time (24 Hr. 6	Hock 093	0				· · · · · · · · · · · · · · · · · · ·
Section IV-Automated System Data			· · · · · · · · · ·		<u> </u>	
19. Type of Inspection E01 20. Event Number 4	120607	21. Primary (or Mill			
22. Signature	<u> </u>		r	23. AR Nur	nber 243	129

MSHA Form 70003, Mar 85 (revised) In Accordance with the provisions of the Smell Business Regulatory Enforcement Fairness Act of 1996, the Smell Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the antorcement actions of MSHA, you may call 1988-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

POSSIBLE KNOWING/WILLFUL/VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE D 46-08436 MSHA OFFICE	Mt. Hope
MINENAME Upper Big Branch Mine - Sou	
COMPANY NAME Performance Loal Compa	
Citation/Order No. 72 7 8 7 8 2 Dat	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NOLE If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Altach supplemental information if needed)	a de la companya della companya dell
1. Did the condition or practice cited create the presence of a high degree of risk to the h	ealth and/or safety of miners? Yes No No
a) Who was exposed to the hazard? (Name and Occupation)	Maria I am I de dileza
Abner Shrewsbury, Miner operator and I b) How were they exposed to the hazard? The respinable dus	Melvin Lynch, Shuttle Con Oper. L. Hey was, working in
c) When and over what period of time did the exposure occur?	min
d) Is this first hand information? Yes No	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or co a) Who had this knowledge? (Name and Title) OKey Cook, ちゃ	ction Foreman
b) How was this knowledge evidenced? He was tighten the while the Miner Operator and should be	curtains in the #2 entry
c) Is this first hand information? Yes No \[\int \text{No } \[\int \text{No } \] If not, who provided the information? (Name and Occupation)	
3. Any other pertinent information: The 041-0 is on a	reduced 1. Truefm 3 respirable
dust standard,	
INSPECTOR'S CONCLUSION:	
Based on this review, does this appear to be a possible knowing and/or willful violation	on of the Act or mandatory health or safety standard? Yes⊖No 🏻
Inspector AR Number: 24320 Signature: Kevin E	Figel Date: 4-22-08
Supervisor: Do you agree with the inspector's conclusion? Yes No [
Signature: Roge D. Rielmo	Date: 4-29-09
POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further action.	
Assistant District Manager: Recommendation: A. (A or C from the list above) Signature:	Date: 51268
Supervisory Special Investigator: Recommendation: (A or C from the list about 1997)	Date: 5/8/28
District Manager, Action Pecision: G. IA or G from the list above) Signature:	Date: 5/6/2008
ADDITIONAL COMMENTS OR REMARKS: Dever Limite (exposure
National Control of the Control of t	
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Invactinator Accional	ID No.

		•			RR .
Mine Citation/Order		. Department of La e Safety and Health			4-24
Section I-Violation Data				· · · · · · · · · · · · · · · · · · ·	
1. Date Mo Da Yr 2. Time (24 Hr. Cloc 04/22/2008 1037	к)		3. Citation/ Order Number	7278782	<u>)</u>
4. Served To	5.0	perator "	1 22		
Gary May, Mine Foreman	PEI	FORMANCE COA	L COMPANY		.w
6. Mine	7. M	ine ID 46-08436	<u> </u>		
UPPER BIG BRANCH MINE-SOUTH 8. Condition of Practice	<u></u>	************		8a. Written No	(Contractor)
The operator was not section (MMU 040-0) to commining machine was mining for 2 breaks outby the end of the committee of the	ntrol methane a rom #2 entry to he shuttle car.	and respirabl #3 entry. T The air rea	e dust. T he dust w ding at t	plan on he cont as visil he mine	the #2 Lnuous ple from r was
				r	
				:	
			i Cina Haimtlainailtái	n Form (MSHA Fo	
9. Violation A. Health B. Section	C. Part/Se	olog of	See Continuation	i Form (MSFIA FC	im vono-sa)
Safety of Act Other	Title 30		75.370(a)(I)	• · · · · · · · · · · · · · · · · · · ·
Section II - Inspector's Evaluation	<u>and was a same and a same and a same and a same and a same a</u>			TOTAL STREET THE TANK THE	
10. Gravity: A. Injury or Illness (has) (is): No Likelihood [Unlikely 🗍 Reas	onably Likely 🔲 🔠	lighly Likely 🔽	Occurred	i i i
B. Injury or illness could rea-	Tim Takite ay i Najara Kabupaté	Restricted Duty	Permanently Disa	भि. वर्ष स्थापन सम्बद्धाः	Fatal 🔲
A ACTUAL TO A CONTRACT OF THE	[6 []	The second secon). Number of Perso		002
	Low C Moderate	D. High ⊊	E. Reck	ess Disregard	
12: Type of Action 104(d)(2)	13. Type of Issuance (c		tion ☐ Orde		Safeguard [
14. Initial Action	E. Cit	STATE OF THE STATE	7 1 7	F. Dated	Mo Da Yr
A. Citation ☐ B. Order ☑ C. Safeguard ☐ D.		ler Number 72	79743	r. Dace	03/07/2008
15. Area or Equilpment The #2 sec	etion (MMU 040	(≟ 0).			Y
				<u> </u>	
16. Termination Due A. Date Mo Da Yr B.	Time (24 Hr. Clock)		e e e e e e e e e e e e e e e e e e e		
Section III-Termination Action				The state of the s	
17. Action to Terminate The operat air to the continuous mining	cor made ventil g machine.	ation change	s to get (6,900 CF	M of
04/22/2008	4 Hr. Clock 1100				
Section IV-Automated System Data		64 million 1200	1		
19. Type of Inspection (activity code) E01 20, Event Number:	4120376	21. Primary or Mill			

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small business about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

22. Signature &

23. AR Number

24320

					PR 28
Mine Citation/Order Continuation	การการสังสาราสมัยส		U.S. Department of I Mine Safety and Heal		4-24
Section I-Subsequent Action/Continuation	n Data		**************************************		
1. Subsequent Action 1a. Continuat	ion 2. Da(ed (Original Issue)	Mo Da 04/22/20	Yr 3. Citation/ Order Number	7278782 - 01	
4. Served To		/	5. Operator		
Gary May, Mine Foreman	3000		PERFORMANCE CO)AL COMPANY	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
6. Mine			7. Mine ID	1.6	(Contractor)
UPPER BIG BRANCH MIN	E-SOUTH		46-0843	30	
Section II Justification for Action					
Change	From		To		
8. Condition Or Practice	:			V.,	
Reason To read (MMU 04	41-0)		•		• •
15. Area or Equipment					
Reason To read (MMU 041-	0)			•	

<u>.</u>	,	· · · · · · · · · · · · · · · · · · ·	See Continuation For	m 🔲
Section III-Subsequent Action Taken			9,.	
8 Extended To A. Date Mo Da	97 B. Time (24 Hr. Clock)	☐ C. Vacated	☐ D. Terminated ☑ E. Modified	
Section IV-Inspection Data				
9. Type of Inspection E01	10. Event Number 4120376	The state of the s		
11. Signature Herrin E. J	AR Number 24320	12 Date Mo Da Yr 04/23/2008	13. Time (24 Hr. Clock) 0639	
MSHA Form 7000-3a, Mar 85 (revised)				

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



	ISHA OFFICE 2446/
MINENAME GPP4 Big Branch	move South
COMPANY NAME PErformance	
Citation/Order No. 718 389 2	Date July 25 200)
AGCIDENT INFORMATION: Was this violation associated with an accident which caused an injury?	YES NO If yes: Fatal? Non-fatal?
REVIEW CRITERIA; (Attach supplemental information if needed)	
Did the condition or practice cited create the presence of a high degree	of risk to the health and/or safety of miners? Yes [] No [4]
a) Who was exposed to the hazard? (Name and Occupation)	
Centeragy operator shuffle cor op	crate Arz Root butters, experiences
b) How were they exposed to the hazard? The workers	were exposed to roof holderdows:
while mining in the are, and is	thele making examinations in any
When and over what period of time did the exposure occur? OU	er approved of Approximately
d) Is this first hand information? Yes No I No I find, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, o	f the facts or conditions constituting the violation? Yes No
a) Who had this knowledge? (Name and Title) Declar form	en Edward Janes, okey Cook, Tom Harra 1
ON-Ship the enteres area.	es Are required to pre-shift And
c) Is this first hand information? Yes No No I I not, who provided the information? (Name and Occupation)	
3. Any other pertinent information: The Cosor in the	S Arca is 200 to 1000 few the
blocks being split are mound	Support blocks in this over. The
	to high for joils on hand On bablock was over to
INSPECTOR'S CONCLUSION:	
The many was a contract to the property of the contract of the	r willful violation of the Act or mandatory health or safety standard? Yes No
Inspector AR Number: 26643 Signature: Will	1 Date: 07-28-08
	Nó 🖸
Signature: Roger Q. Richmo	Date: 0 2 - 28 - 08
POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No furti	ner action.
Assistant District Manager: Recommendation: 4 (A or C from th	and the state of t
Signature: Such LAG	Date: 8/14/08
	rom the list above)
Signature:	Date 10 23/ 1
District Manager, Action Decision: (A or C from the list above)	
Signature:	Date: /2/23/2-8
ADDITIONAL COMMENTS OR REMARKS:	t mit of the
D and the	The west of which the
for a 110 investication	
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	ID No.
A STATE OF THE PARTY OF THE PAR	the state of the s

Document 311-4 Filed 08/18/15 Page 10 of 156 PageID #. 5657

			rder

U.S. Department of Labor

7-28	

<u> </u>	wine Salety and Health Administration
Section 1-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 07/25/2008 1020	3. Citation/ Order Number 7183892
4. Served To	5. Operator
Bill Harless, Mine Foreman	PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition or Practice	8a, Written Notice (103g)
Area Outby the No.1 Section. 50 Ton Hei Installed Across the Crosscut in the Tr No.19879 and the Block Outby for the En after the Block had been Split. The Spl No.19879 had been Driven 19 to 20 Feet	being Complied with in the Construction ntzmann Jack or Equivalent had not been ack Entry Left of Survey Station tire Length of the Block Prior to or it through the Block at Survey Station in Width beginning at Survey Station. The Approved Supplement Requires that cross the Crosscuts and the Pillar ngth of the Blocks and the Width
9. Violation A. Health B. Section C. P.	art/Section of
	arusecuon or se 30 GFR 75,220(a)
Section II-Inspector's Evaluation	
<u> </u>	Reasonably Likely Highly Likely Occurred
contains the expected to be.	ys Or Restricted Duty Permanently Disabling V Fatal
C. Significant and Substantial: Yes ☑ No ☐	D. Number of Persons Affected: 002
11. Negligence (check one) A. None B. Low C. Mo	derate D. High 🕢 E. Reckless Disregard 🗌
12. Type of Action 104(d)(2) 13. Type of Issua	nce (check one) Citation Order 🗹 Safeguard 🗌
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Nolice ☐	E. Citation/ 7279743 F. Dated Mo Da Yr Order Number 03/07/2008
15. Area or Equipment Construct work in Outby ar	ea off of No.1 Section
16. Termination Due A. Date Mo Da Yr B. Time (24.Hr. Clock)	
Section III—Termination Action	
17. Action to Terminate Additional Supports, Jacks	, Cribs and Timbers have been
installed in the affected area.	
07/25/2008	825
Section IV-Automated System Data	
19. Type of Inspection (activity code) E01 20. Event Number 4118287	21. Primary of Mill
22. Signature William & More	23. AR Number 20643
and the second s	ners of new recovers an early decreased about the figure of the first transfer of the first of t

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note; however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 11 of 156 PageID #: 5658

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to the same board and a second of			The second second second	e actività di malaccia
Mine Citation/Order			U.S. Departme	ent of Labor
A	the second second second			
Continuation	A grade of the second control of	and provide a con-	 Mine Safety an	d Hoolth Adr
Continuation			milic oalety an	a ream var

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:				

Continuation			Mine S	Safety and Health Administration	
Section I-Subsequent Action/Continuation Data	************************************	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,			tatoria taranta a a a a a Barrara a a a a a a a a a a
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da 07/25/2	Vr 008	3. Citation/ Order Number, 7183892	W. Arrest
4. Served To Bill Harless, Mine Foreman	:		5. Opera PERFO	ator ORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SO	UTH		7. Mine	46-08436	(Contractor)
Section II-Justification for Action			***************************************		en e

Continuation of 8. Condition or Practice

Requirements of the Roof Control Plan. This area has been mined for Several Shifts and is Located 250 Feet outby the Active Section. The area had been Examined but the Conditions Cited had not been Reported for Correction.

A The many page to the designation	and the second s	See Continuation Form
8. Extended To A. Date Mo	Da Yr B. Time (24 Hr. Clock)	C, Vacatéd D. Terminated E. Modified
Section IV-inspection Data 9. Type of Inspection E01		
11. Signature 7. Sillion PM	AR Number 12 20643	Date Mo Da Yr 13. Time (24 Hr. Clock) 07/25/2008 1020

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



inkie in	46-08436		##0!!# OFFICE	2640	1	
	the state of the s		msha office		À	***************************************
AINE NAME		OVMANCE	2		· · · · · · · · · · · · · · · · · · ·	anga an ang mga panganan ng panggal
COMPANY	10 1 12 5 10 to		*	<u> </u>		<u> </u>
Citation/Orde	r.No	A Company of the Comp	Date	July 2	5 2008	The state of the s
	NFORMATION: alion associated with an accident t	Which caused an Injury?	YES	NO E	If yes: Fatal?	Non-fatal?
REVIEW CRI	TERIA: (Attach supplemental info	rmation if needed)				
	ndition or practice cited create the as exposed to the hazard? (Name		e of risk to the health	and/or safety of m	iners? Yes 🗌	No 🖃
	Entire No1 Si	: Clien Cru	ين			* ************************************
b) How we	re they exposed to the hazard? $oldsymbol{I}$	he Controls	being ou	4 Woul	dallow si	notes to
set	into the intalle	had a fire e	sccurce a	wake con	xried on to A	NOLSC Ses
c) vvnen a	nd over what period of time did the	e exposure occur? /K	ining IN	the deve	area sign	0.4
d) is this fi	rst hand information? Yes	No.	19.3			
2. Did the or	perator or agent have actual know	edge, or reason to know,	of the facts or condit	ions constituting the	violation? Yes	No□
	d this knowledge? (Name and Title	5.5)				HALTOL
b) How wa	as this knowledge evidenced? The Skill Awd of	hus employed shift exem	es are reg	ure 6	extense of	he curcu
	rst hand information? Yes	No 🗌				
,	the provided the information? (Na		· · · · · · · · · · · · · · · · · · ·	5		
			A."		as And C	04/
<u> </u>	es being prod	were for the	t fou ove	<u> </u>	······································	
1, <u>312,44,42,4</u>		e gare e e e e e e e e e e e e e e e e e e e			· · · · · · · · · · · · · · · · · · ·	
	's conclusion:	de la company d'argent planteur de la company de la co	ingen kan segggan adap se digin gelesa segga	Onde Albrechushinghafi	Nadarski u nuskaku i u tuna komuna ka ka esta uza	en eraken eraken berentak da
	this review, does this appear to b		1	the Act or mandato		
•	AR Number: 20643	Signature: 20		Lucens	Date:	7-28-08
-	Do you agree with the inspector	s conclusion? Yes 12	No 🔲			
Signature	" Roge D. Kick			· · · · · · · · · · · · · · · · · · ·	Date: 2	7-28-08
	RECOMMENDED ACTIONS:			. · ·	i e	
	ict a special investigation.	21	rther action.			, j
	District Manager: Recommendation	7	the list above)			1.110
Signature	" yurado	deki S			Date: 8	114108
	ry Special Investigator: Recommo	ingletion: (A or C	from the list above)			
Signature	"Lady D.K	docles_			Date: /	0/23/08
District Ma		A or C from the list above))		9920	Z Z
Signatur	- J-vvw-U-NJ	rdyn-			Date / D	123/2008
ADDITIONA	L COMMENTS OR REMARKS	does moi	t meet	-the	outeria	flex
<u>a</u>	110 indesti	itor				
CASE ASSI	GNMENT INFORMATION:)	<u> </u>		van en en	· · · · · · · · · · · · · · · · · · ·
	ation Case No.			ä	Date Assigned	÷
	The safety of the first spirit and the safety of the safet	Para di Merendari di Local Mil a		tur estri a control de la control e		र सम्बद्धाः विशेषिकान्त्रः
Investiga	Itor Assigned			 	ID No.	

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A	8.08
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Mine Citation/Order

U.S. Department of Labor Mine Safety and Health Administration

Section I-Vio	lation Data	and and a single control of the state of the	TO THE REPORT OF THE PARTY OF T	austria. Taken 1777 Kanada Kanada Kanad		and the many constitution	
1. Date	Mo Da (Yr 07/25/2008	2. Time (24 Hr. Clock) 1525			3. Citation/ Order Number	7183893	
4. Served T Bill Harle	o ess, Mine Forem	an_	5. Operator PERFOR	MANCE COA	L COMPANY	er land and en er er er er er er er er Die er	
6. Mine UPPER E	BIG BRANCH M	INE-SOUTH	7. Mine ID	46-08436			(Contractor)
8. Condition	or Practice					8a, Written Notic	e (103g)

The Primary Escapeway, Main Intake, from No.1 Section was not Separated with Permanent Type Stoppings from the Belt Conveyor Entry at Four (4) Locations. The Stoppings had been Removed and Brattice Cloth had been Installed as a Separation. The area had been Examined and the Conditions had not been Reported for Correction.

·	·	See Continuation Form (MSHA	Form 7000-3a)
9. Violation A. Health B. Section of Act Other D	C. Part/Section of Title 30 GFR	75.380(g)	
Section II-Inspector's Evaluation			
10. Gravity:		All soon your earlier — All Silvinia	
A. Injury or Illness (has) (is): No Likelihood Unlikely	Reasonably Likely 🔽	Highly Likely 🗌 Occum	ed 🔲
B. Injury or Illness could reasonably be expected to be: No Lost Workdays Lo	st Workdays Or Restricted Duty	Permanently Disabling 🗸	Fatal 🔲
C. Significant and Substantial: Yes 🗹 No 🗌		D. Number of Persons Affected;	010
11. Negligerice (check one) A. None B. Low	Ç. Moderate 🔲 D. H	ligh 🗷 E. Reckless Disrega	kg 🔲
12. Type of Action 104(d)(2) 13. Typ	e of Issuance (check one)	Citation ☐ Order ✓	Safeguard 🗌
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice	E. Citation/ Order Number	7279743 F. Dated	Mo Da Yr 03/07/2008
15. Area or Equipment No.1 Section			<u></u>
16. Termination Due A. Date Mo Da Yr B. Time (24 Fir.	Clock)	· · · · · · · · · · · · · · · · · · ·	
Section III-Termination Action			7
17. Action to Terminate Permanent type stoppi areas separating the primary escap			ted
18. Terminated A. Date Mo.Da Yr 07/25/2008 B, Time (24 Hr. Clock	2115	er militar e e. a. e	
Section IV-Automated System Data			
19. Type of Inspection (activity code) E01 20. Event Number 41182	287 21. Primary or M		
22. Signature Dellian R. Iwen	The second secon	23, AR Number 206	i43

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416: Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 46-08436 MSHA OFFICE	20401
MINENAME Upper Big Brauch - South COMPANY NAME Performance Coal Co.	the state of the s
AND THE PROPERTY OF THE PROPER	= la = la =
Citation/Order No. 8090958 Da	le 1/13/08
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO V If yes: Fatal? Non-tatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
1. Did the condition or practice cited create the presence of a high degree of risk to the h	nealth and/or safety of miners? Yes 🗌 No 🕡
a) Who was exposed to the hazard? (Name and Occupation)	
Harley Taylor - seal examinar	
b) How were they exposed to the hazard? He traveled through H	
c) When and over what period of time did the exposure occur? Can be done The week of 8/27/09	mental every day Mon-Fri since
d) Is this first hand information? Yes No \(\bigcup \) If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or c	
a) Who had this knowledge? (Name and Title) Andy Coalson, mine	
b) How was this knowledge evidenced? He countersigned the book	k reporting this condition each week.
c) Is this first hand information? Yes No	
INSPECTOR'S CONCLUSION:	
Based on this review, does this appear to be a possible knowing and/or willful violation	on of the Act or mandatory health or safety standard? Yes No
Inspector AR Number, 24308 Signature: William K	n
Supervisor: Do you agree with the inspector's conclusion? Yes I No	
Signature: Which of H	Date: 4/29/0
frama i prans	——————————————————————————————————————
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation.	
Assistant District Manager: Recommendation: (A or C from the list above)	
Signature: Angle Land	Date: 10/6/09
Supervisory Special Investigator: Recommendation: A of C from the list about	nva)
Signature: Signature:	Date: 10/4/05
- May 17 / Ville	
District Manager: Action Decision: (A or C from the list above) Signature:	Date: [6] 7 / 2007
ADDITIONAL COMMENTS OR REMARKS:	tion does not what
the criteria for furthe	Level .
CASE ASSIGNMENT INFORMATION:	
	Data disalamani
Investigation Case No.	Date Assigned
Investigator Assigned	ID No.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 15 of 156 PageID Mine Citation/Order U.S. Department of Labor Mine Safety and Health Administration Section I-Violation Data 2. Time (24 Hr. Clock) 3. Citation/ 1. Date Mo Da Yr 8090958 Order Number 09/23/2009 0935 4. Served To 5. Operator PERFORMANCE COAL COMPANY David Taraczkozy, chief electician 7. Mine ID 46-08436 UPPER BIG BRANCH MINE-SOUTH (Contractor) 8. Condition or Practice 8a. Written Notice (103g) The operator is failing to adequately protect miners from falls of the roof and rib in the area of the #37 seal. The mine roof has fallen out from between the majority of the roof bolts for a break each inby and outby the seal. The mine roof has also fallen completely away from at least 8 roof bolts, leaving them hanging 2' from the mine roof. This condition has been reported in the weekly exam for hazardous conditions for the weeks of 8/27/09/, 9/2/09, 9/12/09 and 9/19/09. These reports had all been countersigned by the mine foreman. The operator engaged in aggravated . conduct by knowing about these conditions and failing to take action on a This violation is unwarrantable failure to comply with a known hazard. mandatory standard. See Continuation Form (MSHA Form 7000-3a) 9. Violation A. Health B. Section C. Part/Section of Safety 🗸 of Act Title 30 CFR 75.202(a) Other Section II-Inspector's Evaluation 10. Gravity: No Likelihood Unlikely | Reasonably Likely V A. Injury or Illness (has) (is): Highly Likely Occurred B. Injury or illness could rea-Permanently Disabling 🗸 No Lost Workdays I Lost Workdays Or Restricted Duty Fatal 🗍 sonably be expected to be: C. Significant and Substantial: D. Number of Persons Affected: 001 Yes 🗸 No 🗍 11. Negligence (check one) A. None B. Low D. High 🗸 C. Moderate E. Reckless Disregard 12. Type of Action 13. Type of Issuance (check one) Citation [Order 🗸 Safeguard Written Notice 104(d)(2) E. Citation/ 14. Initial Action F. Dated Mo Da Yr 8082692 B. Order C. Safeguard D. Written Notice Order Number A. Citation 03/17/2009 15. Area or Equipment The entry for 1 break on each side of the #37 seal. Mo Da Yr 16. Termination Due A Date B. Time (24 Hr. Clock) Section III-Termination Action 17. Action to Terminate

Saul MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

21. Primary or Mill

23, AR Number

24308

Mo Da Yr

E01

20. Event Number

B. Time (24 Hr. Clock

4119293

18. Terminated

22. Signature

(activity code)

A. Date

Section IV-Automated System Data 19. Type of Inspection

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 16 of 156 PageID # Mine Citation/Order U.S. Department of Labor Mine Safety and Health Administration Continuation Section I-Subsequent Action/Continuation Data 3. Citation/ Order Number 8090958 - 01 1. Subsequent Action 1a. Continuation 2. Dated Da (Original Issue) 09/23/2009 4. Served To 5. Operator PERFORMANCE COAL COMPANY David Taraczkozy, chief electician 7. Mine ID (Contractor) 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II—Justification for Action seal 37 has been timbered. The area, inby and outby,

	4 		See Continuation Form
Section III-Subsequent Action Taken		and the second s	
8. Extended To A. Date Mo Da	Yr B. Time (24 Hr. Clock)	☐ C. Vacated ☑ D. Terminated	E. Modified
Section IV-Inspection Data			
9. Type of Inspection E01	(0, Event Number 4119293		-
11. Signature	AR Number 24308	12. Date Mo Da Yr 13. Time (24 Hr. Clo 09/24/2009 1202	ock)

Case 5:14-cr-00244 • Document 311-4 Filed 08/18/15 Page 17 of 156 PageID #: 5664

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional information)	U.S. Department of Labor Mine Safety and Health Administration
MINEID 46-08436 MSHA OFF	ICE 2040/
MINENAME LAPER BY BRANCH - SOUTH	
COMPANY NAME ASSESS PENTAMINE COAL CO	
Citation/Order No. 809096/	Date, 704 / C
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO If yes: Falat? Non-fatai?
REVIEW CRITERIA: (Attach supplemental information if needed)	List at ve t
 Did the condition or practice cited create the presence of a high degree of risk to a) Who was exposed to the hazard? (Name and Occupation) 	he health and/or safety of miners? Yes . No . No
See attacked list 40 total minurs	
b) How were they exposed to the hazard? The lack of AMS	training exposed them to increased
Misk there of fine or smoke.	
c) When and over what period of time did the exposure occur? 9///09 -	9/24/09 24 hrs a day
d) Is this first hand information? Yes No	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts	or conditions constituting the violation? Yes No
a) Who had this knowledge? (Name and Tille) Ewene We Hager,	
b) How was this knowledge evidenced? He knew the AMC SI	xiem was functional but that
c) Is this first hand information? Xes 🕢 No 🗌	
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	
So raily states personal anorthalism.	and the second of the second
	Company of the Compan
The state of the s	The state of the s
INSPECTOR'S CONGLUSION:	Tugʻilgan ilgan oʻzay
Based on this review, does this appear to be a possible knowing and/or willful vi	olation of the Act or mandatory health or safety standard? Yes !! No !!
Inspector AR Number: 20308 Signature: William	Bane Date: 9/24/09
Supervisor. Do you agree with the inspegior's conclusion? Yes	doute
Signature: Thursday N XXXX	Date: 9/29/9
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action.	
Assistant District Manager. Recommendation: (A or C from the list above	(e)
Signature: Ancold Zalb	Date: 10/4/69
Supervisory Special Investigator, Recommendations (4 or C from the list Signature:	t above) Date: 10/1/j.g.
District Manager: Action Decision: C (A or C from the list above) Signature: D. Harden	Date: 15 /2 /2009
ADDITIONAL COMMENTS OR REMARKS:	tion shows ment
the criteria for furt	her review
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
The state of the s	
Investigator Assigned	ID No.

WHITE: SPECIAL INVESTIGATOR

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 18 of 150 PageID #: 5665

B. Endition of Practice The operator is failing to maintain an approved plan of training for the current mining practices. The operator has started a longwall section that uses belt air in the face and uses an AMS system to monitor the atmospheric conditions in and around the longwall. The current approved training plan of not address the AMS system training in any way. Section is provided by the amount of the amount of the atmospheric conditions in and around the longwall. The current approved training plan of not address the AMS system training in any way. Section is provided by the amount of	ine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
4. Served To Everetic Hagar, Supt. 9024/2009		
4. Served To Everter Edgar, Supt. Everter Edgar, Ed		3. Citation/ 8090961
PREFORMANCE COAL COMPANY Control		O COLUMNIC CONTRACTOR OF THE COLUMNIC CONTRACTOR OF THE COLUMNIC CONTRACTOR OF THE COLUMNIC C
Type BIG BRANCH MINE-SOUTH 7. Mine ID 46-08436 Continuation Premission The operator is failing to maintain an approved plan of training for the current mining practices. The operator has started a longwall section that uses belt air in the face and uses an AMS system to monitor the atmospheric conditions in and around this longwall. The current approved training plan do not address the AMS system training in any way. See Continuation Foin MissiA Form 1980.3 9. Violation A. Health B. Section of Act Other C. Part/Section of Act Other Great C. Part/Section of Act Other Great		
UPPER BIG BRANCH MINE SOUTH Set Written Notice (15) The operator is failing to maintain an approved plan of training for the current mining practices. The operator has started a longwall section that uses belt air in the face and uses an AMS system to monitor the atmospheric conditions in and around the longwall. The current approved training plan of not address the AMS system training in any way. See Continuation Form Mash4 Form 7000-3 9. Vicinition A Health B. Section of Title 30 CFR 48.3 Section A Health B. Section of Title 30 CFR 48.3 Section A Health B. Section of Title 30 CFR 48.3 Section B. Departor's Evaluation Form Mash4 Form 7000-3 A Injury of lineas (abid researched to be. Southless to be appended to be. Southless Departor De		
B. Endition of Practice The operator is failing to maintain an approved plan of training for the current mining practices. The operator has started a longwall section that uses belt air in the face and uses an AMS system to monitor the atmospheric conditions in and around the longwall. The current approved training plan of not address the AMS system training in any way. Section is provided by the amount of the amount of the atmospheric conditions in and around the longwall. The current approved training plan of not address the AMS system training in any way. Section is provided by the amount of		46-08436 (Contractor)
The operator is failing to maintain an approved plan of training for the current mining practices. The operator has started a longwall section that uses belt air in the face and uses an AMS system to monitor the atmospheric conditions in and around the longwall. The current approved training plan do not address the AMS system training in any way. See Centification of AH easth B. Section of Act Time 80 GCR 48.3 Section Inspector's Evaluation. Output Control of Act Time 80 GCR 48.3 Section Inspector's Evaluation. Output Control of Act Time 80 GCR 48.3 Section Inspector's Evaluation. Output Control of Act Time 80 GCR 48.3 Section Inspector's Evaluation. Output Control of Act Time 80 GCR 48.3 Section Inspector's Evaluation. Output Control of Act Time 80 GCR 48.3 Section Inspector's Evaluation. Output Control of Act Time 80 GCR 48.3 Section Inspector Evaluation. Output Control of Act Time 80 GCR 48.3 Section Inspector Evaluation. Output Control of Act Time 80 GCR 48.3 Section Inspection of Inspection (Add)(2) In Negligence (check one) A. Noire B. Low Control of Inspector (Check one) Cluston D. Noire Inspector (Check one) Cluston D. Order GC Safeguard D. Noire Noire Action (Ind Add)(2) In Negligence (Check one) A. Noire B. Low Control of Check one) Cluston D. Control of GCR GC Safeguard D. Noire Noire Noire Action (Ind Add)(2) In Negligence (Check one) A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industrial A. Date Mo Da Yr B. Time (24 Hr. Clock) Section Industr		8a. Written Notice (103g)
9. Violation A. Health Safety Other Ot	current mining practices. The operauses belt air in the face and uses conditions in and around the longwa	ator has started a longwall section that an AMS system to monitor the atmospheric all. The current approved training plan does
9. Violation A. Health Safety Other Ot		
Safety of Act Other Othe		See Continuation Form (MSHA Form 7000-3a)
10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred B. Injury or Illness could reasonably be expected to be: C. Significant and Substantial: Yes V No D. Number of Persons Affected: 040 11. Negligence (check one) A. None B. Low C. Moderate D. High W E. Reckless Disregard D. High M. E. Reckless Disregard D. High M. E. Reckless Disregard D. T. Type of Action 104(d)(2) 13. Type of Issuence (check one) A. Citation B. Order C. Safeguard D. Written Notice Criterion/Order Number B. Citation/Order Number B. Citation/Order Number B. Time (24 Hr. Clock) Section III—Termination Action 17. Action to Terminate 18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) Section IV—Automated System Data 19. Type of Inspection E01 20. Event Number 4119293 21. Primary or Mill	Safety of Act Other ☑	C. Part/Section of Title 30 CFR 48.3
Sonably be expected to be: No Lost Yvorkoays Lost Yvorkoays or restricted buy Permanenty Disabiling W/ Fatal C. Significant and Substantial: Yes No D. Number of Persons Affected: 040 11. Negligence (check one) A. None B. Low C. Moderate D. High E. Reckless Disregard 12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Not Data 14. Initial Action B. Order C. Safeguard D. Written Notice E. Citation 8082692 F. Dated Mo Da A. Citation B. Order C. Safeguard D. Written Notice Order Number 8082692 F. Dated Mo Da 15. Area or Equipment The Longwall inby the belt tailpiece. 16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock) Section III-Termination Action 17. Action to Terminate A. Date Mo Da Yr B. Time (24 Hr. Clock) Section IV-Automated System Data 19. Type of Inspection E01 20. Event Number 4119293 21. Primary or Milt	10. Gravity: A. Injury or (Ilness (has) (is): No Likelihood [Unlikely [☐. Reasonably Likely 📝 Highly Likely 🔲 Occurred [
11. Negligence (check one) A. None B. Low C. Moderate D. High Ø E. Reckless Disregard 12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Ø Safeguard Written Notice E. Citation/Order Number 8082692 F. Dated Mo Da A. Citation B. Order Ø C. Safeguard D. Written Notice Corder Number 8082692 F. Dated Mo Da A. Citation De	B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐. Lost	t Workdays Or Restricted Duty 📋 Permanently Disabling 🗹 Fatal 📋
12. Type of Action 104(d)(2) 13. Type of Issuence (check one) Cliation Order Safeguard Written Note 14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number 8082692 F. Dafed Mo Da (03/17/) 15. Area or Equipment The Longwall inby the belt tailpiece. 16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock) Section III-Termination Action 17. Action to Terminate A. Date Mo Da Yr B. Time (24 Hr. Clock) Section IV-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill	C. Significant and Substantial: Yes 🗹 No 🗌	D. Number of Persons Affected: 040
14. Initial Action A. Citation B. Order C. C. Safeguard D. Written Notice Corder Number B. Order Number B. Order Number B. Order Number B. Time (24 Hr. Clock) Section III-Termination Action A. Date B. Time (24 Hr. Clock) Section IV-Automated A. Date Mo Da Yr B. Time (24 Hr. Clock) Section IV-Automated System Data 19. Type of Inspection (activity code) B. Time (20. Event Number 4119293 21. Primary or Mill	11. Negligence (check one) A. None B. Low D	C, Moderate D. High 🗹 E. Reckless Disregard 🗌
A. Citation B. Order C. Safeguard D. Written Notice Order Number 303/17// 15. Area or Equipment The Longwall inby the belt tailpiece. 16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock) Section IIITermination Action 17. Action to Terminate 18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock Section IV-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill	12. Type of Action 104(d)(2) 13. Type of Is	ssuance (check one) Citation . Order 🗹 Safeguard . Written Notice .
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock) Section II-Termination Action 17. Action to Terminate 18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock Section IV-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill		
Section III-Termination Action 17. Action to Terminate 18. Terminated A. Date B. Time (24 Hr. Clock Section IV-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 41 19293 21. Primary or Mill		e belt tailpiece.
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock Section IV-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 41 19293 21. Primary or Mill	16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. C	Clock)
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock Section IV-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 41 19293 21. Primary or Mill	Section III-Termination Action	
Section IV-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill		
Section IV-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill		
19. Type of Inspection 20. Event Number 41 19293 21. Primary or Mill (activity code) E01	18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock	
(activity code) E01 4119293		
and the first than the control of th		93 21. Primary or Mill
22. Signature 23. AR Number 24308	22 Signature 4 /	23. AR Number 24308

MSHA Form 7000-3, Apr 08 (revised)

In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ornbudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MG 2120, Washington, DC 20418. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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nine Citation/Order Continuation		U.S. Department of Lab Mine Safety and Health A		(4) (1) (3)
Section I-Subsequent Action/Confinuation Dat 1. Subsequent Action 1a. Continuation	a 2. Dated Mo D	a Yr 3.Citation/ a		
	(Original Issue) 09/24/	2009 Order Number 8	090961 - 01	
4. Served To		5. Operator		
Everette Hagar, Supt.	rational residence in the control of	PERFORMANCE COAL	COMPANY	
6. Mine UPPER BIG BRANCH MINE-S	OUTH	7. Mine ID 46-08436	(Contractor)	
Section II—Justification for Action		n and the second of the second		<u> </u>

Section III-Subsequent Action Taken			See Continuation Form
8: Extended To A. Date Mo Da	Yr B. Time (24 Hr. Clock)	☐ C. Vacated	☑ D. Terminated ☐ E. Modified
Section IV-Inspection Data 9. Type of Inspection E01	10. Event Number 4119293		
11. Signature / Milliam Ba	AR Number 24308	12 Date Mo Da Yr 09/24/2009	13. Time (24 Hr. Clock) 1322

MSHA Form 7000-3a, Mar 85 (revised)

A training plan concerning the AMS system has been approved by MSHA.

Mine Citation/Orde	(r :				artment of Labor ety and Health Admir	istration	7/74/1811
Section I-Subsequent Act	on/Continuation Data	r Referense bereiter			AND CONTRACTOR OF THE STATE OF	en ere Den gergelikker gergelik	
1. Subsequent Action	la, Continuation	2. Dated (Original Issue)	Mo Da 09/24/200		Citation/ Order Number 8090	961 - 02	
4. Served To				. Operator			
Everette Hagar, St	pt		P	ERFOR	MANCE COAL CO	MPANY	the second second second
6. Mine UPPER BIG BRA	NCH MINE-SC	UTH	7	. Mine ID	46-08436	24	(Contractor)
Section II-Justification for	Action					ranga da	ananggarananggaranang
Change	Fr	om	ne in situa salawa	were we ear	To		,
8. Condition Or Practic	e						
aggravate		lling the AMS syste			ne to fire and/or smoke ining. This violation is		

<u> </u>	والمناف	A STATE OF THE STA	See Continuation Form	
Section III-Subsequent Action Taken				·
8. Extended To A. Date Mo Da	Yr B. Time (24 Hr. Clock)	C. Vacated	D. Terminated VE. Modified	
Section IV-Inspection Data			Anna Mark Tanasan Marka	
9. Type of Inspection E01	10. Event Number 41 19293	TO THE STATE OF TH	The state of the s	7.5
11. Signature	AR Number 12. Date 24308	09/28/2009	13. Time (24 Hr. Clock) 1418	

MSHA Form 7000-3a, Mar 85 (revised)

Case 5:14-cr-00244- Document 311-4 Filed 08/18/15 Page 21 of 156 PagetD #: 5668

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 46-0 8436 MSHA OFFICE 2	0401
MINENAME LAGGE BIE BLONDE - SOUTH	
COMPANY NAME PERFORMAN COOL CO	
Citation/Order No. 3062692 Date 3	1/7/09
Viginity (10) 22 27 22 27 27 27 27 27 27 27 27 27 27	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
1. Did the condition or practice cited create the presence of a high degree of risk to the health and a) Who was exposed to the hazard? (Name and Occupation)	or safety of miners? Yes No (1)
Mail Howerson CM Brian Collins CM, Scott Browning & W b) How were they exposed to the hazard? The ware exposed to the hazard not Examiner, Russell Gunnor. They where work working the thirs c) When and over what period of time did the exposure occur? 3/16 + 3/17/09 TI	Minn Storgill To Jake Loman To formal and corrested by the section.
most out the skirtst according to his Stofements in MSM d) is this first hand information? Yes 1 No 1 If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions a) Who had this knowledge? (Name and Title) Russell Guine Section for more	and presh for examiner
b) How was this knowledge evidenced? He admitted knowledge to MSHA in: example as a great to this section. DTI's were present and we also	spector William Bane, Hewas Tre Acid I signed a report that was an exam of cromm
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: \(\sum_{SSV} D - \sum_{CV} \sum_{SO} \) \(\sum_{SO} \) \(\sum_{SV} \sum_{SO} \) \(\sum_{SV} \sum_{SO} \) \(\sum_{SO} \)	a cixa de mentilation vialadies.
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the A	Act or mandatory health or safety standard? Yes ☐ No 図
Inspector AR Number: 24306 Signature: Will Line	Date: 3/20/09
Supervisor: Do you agree with the inspector's conclusion? Yes D No D	Date: 4/1/05
POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further action.	
A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: Are C from the list above)	
Signature: Kill & Delb S	Date: 4-1-09
Supervisory Special Investigator: Recommendation (A or C from the list above) Signature: A S S S S S S S S S S S S S S S S S S	Date: 4/3/59
District Manager: Action Decision: (A or C from the list above) Signature:	Date: 4/3/2009
the cutera for a 110 ins	res not meet
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	ID No.

MSHA Forth 7000-20, June 97 (revised)

WHITE: SPECIAL INVESTIGATOR

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 22 of 156 Page D #: 5669

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 03/17/2009 0035	3. Citation/ Order Number 8082692
4. Served To Homer Wallace, Supt.	5. Operator PERFORMANCE COAL COMPANY
6, Miné UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition or Practice The operator failed to make an adequa	8a. Written Notice (103g)
evening shift section foreman, Russell hours, was inadequate in that the foll reported: 1) The left roof bolter was operating ventilation curtain. 2) The #2 face was ventilation curtain. 3) The #3 face was	in the 2L crosscut without any s approximately 50' deep without any s approximately 60' deep without any s approximately 40' deep without any right roof bolter was parked in the s miner was sitting in the #5 face
	See Continuation Form (MSHA Form 7000-3a) Part/Section of Title 30 CFR 75.360(a)(1)
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely	Reasonably Likely 🔽 Highly Likely 🗍 Occurred 🗍
B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Work	days Or Restricted Duty ☐ Permanently Disabling ☑ Fatal ☐
C. Significant and Substantial: Yes ☑ No ☐	D. Number of Persons Affected: 008
11, Negligençe (check one) A. None B. Low C. M.	loderate ☐ D. High ☑ E. Reckless Disregard ☐
12. Type of Action 104(d)(1) 13. Type of issuance	e (check one) Cifation ☐ Order ☑ Safeguard ☐ Written Notice ☐
14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice	E. Citation/ 8074834 F. Dated Mo Da Yr Order Number 03/17/2009

An adequate examination of the section has been conducted of the 17. Action to Terminate section and the results recorded in the preshift book.

The entire #3 working section.

B. Time (24 Hr. Clock)

Mo Da Yr

15. Area or Equipment

16. Termination Due

Section III--Termination Action

Mo Da Yr 18. Terminated 0500 B. Time (24 Hr. Clock A. Date 03/17/2009 Section IV-Automated System Data 20. Event Number 21. Primary or Mill 19. Type of Inspection 4119932 E01 (activity code) 23. AR Number 22. Signature 24308

MSHA Form 7000-3, Agr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Cimbudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If, you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-988-734-3247), or write the Ombudsman at Small Business Administration; Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to fife a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

03/17/2009

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Mine Citation/Order Continuation	e de la composición			artment of La	ibor Administration	2/20/4 MI
Section I-Subsequent Action/Continuation Data						
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da 03/17/2	Yr 3	Citation/ Order Number	8082692	
4. Served To Homer Wallace, Supt.	To the second second managers	· · · · · · · · · · · · · · · · · · ·	5. Operator PERFOR		AL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOI	JTH		7. Mine ID	46-0843	5	(Contractor)
Section II-Justification for Action	40.000101044444444			Managa kada kaga ada kada ka		
Continuation of 8. Condition or Practice with the ventilation of	curtain 20	back	from th	e face.	6) The che	ck curtain to

with the ventilation curtain 20' back from the face. 6) The check curtain to be used as a stopping between the #6 and 7 entry was missing. 7) The back up check curtains were missing in the #3, 4 and 5 entries. 8) The check curtain between the #4 and 5 entry was missing.

	`,			_ 120.0		See Continuation Form
Section III—Subsequent Action Taken	ondra yr					
8. Extended To A. Date Mo D	a Yr	B. Time (24 Hr. Clock)		C. Vacated	D. Terminated	☐ E. Modified
Section IV-Inspection Data						
9. Type of Inspection E01	10. E	vent Number 4119932		e		· · · · · · · · · · · · · · · · · · ·
11. Signature Sau	C.	AR Number 24308	12. Date	Mo Da Yr 03/17/2009	13. Time (24 Hr. Clo 0035	ck)

MSHA Form 7000-3a, Mar 85 (revised)

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 24 of 156 PageID #: 5671

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 46-08436 MSHA OF	FICE 20401
MINENAME Offer Big Brouch - South	
COMPANY NAME PEUPONNONC COAL CO	mananan ayan da ayan ayan kasan ayan kasan ayan kasan ayan ka ayan ayan ayan ayan ayan ayan
Citation/Order No. 8082 700	Date 4-7-09
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	□ NO
REVIEW CRITERIA: (Attach supplemental information if needed)	
. Did the condition or practice cited create the presence of a high degree of risk to a) Who was exposed to the hazard? (Name and Occupation) Russed Gou	iae, Sect to emain Joe Lannin 1880 Chinis Reldur II
Scott Brown & Justin Wright FC William Solvery	ill & Brian Collins C/M Mall Hounton C/M - due to insultant bleeding
c) When and over what period of time did the exposure occur? 4/6/3 9	1600-0100 4/7/0G
d) Is this first hand information? Yes No \ No \	
 Did the operator or agent have actual knowledge, or reason to know, of the facts Who had this knowledge? (Name and Title) Comp May M. 	
b) How was this knowledge evidenced? The pillou plan was a (INSERCENTED BILL BANE)	discussed in detail with MSHA lost growser
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	
NSPECTOR'S CONCLUSION:	a anno anno anno anno anno anno anno an
Based on this review, does this appear to be a possible knowing and/or willful y	The state of the s
0.000	San 1 Date: 4/7/09
Supervisor: Do you agree with the inspector's conclusion? Yes No Signature:	Date: 4/27/09
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation. C: No further action	
Assistant District Manager: Recommendation: (A or C from the list abo	Date: 4-23-09
Supervisory Special Investigator: Recommendation (A) or C from the II Signature:	(st above)
District Manager: Action Decision: (A or C from the list above) Signature:	Date: 4/23/2009
ADDITIONAL COMMENTS OR REMARKS: The Dischar	for does not meet
the cultiva for flittle	e review.
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	1D No

WHITE: SPECIAL INVESTIGATOR

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Mine	Cifa	tion.	α	ár
VIIIIC	UHO	CUVIII	-	

16. Termination Due

18. Terminated

Section III--Termination Action 17. Action to Terminate

Mo Da Yr

A. Date

Mo Da Yr

41	419	(191) Za
11	VI .	

Mine Cital	tion/Order		U.S. Department of Mine Safety and He		
Section I-Viol	alion Dafa				
1. Date	Mo Da Yr 04/07/2009	2. Time (24 Hr. Clock) 0615		3. Citation/ Order Number 8082	2700
4. Served To		and the second state of the second s	5. Operator	अपने संबंधित है किया है। अब अपने से स्वार्धित के स्वर्धित है। स्वर्धित	The state of the s
Gary May	, Mine Foreman		PERFORMANCE O	COMPANY	
6. Mine			7. Mine ID 46-084	36	
	IG BRANCH MI	NE-SOUTH	19.00	The state of the s	(Contractor)
8. Condition			3.7		ten Notice (103g)
		failing to comply			
		cof control plan			
		before connecting			
		entry was connect			
	to leave 1	/2 of a block on t	the outside entrie	s of this initia	al pillar
panel.			•		
	. 7				. •
		t.			• .
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		•			
			ž.		•
والمتعدد المتعدد		<u> </u>	<u> </u>	See Continuation Form (M	SHA Form 7000-3a)
9. Violation	A Health	B. Section of Act	C. Part/Section of Title 30 CFR	75,370(a)(1)	
Section II-Inst	pector's Evaluation	*** *** *** *** *** *** *** *** *** **	A STATE OF THE STA		
10. Gravity:	·				
	r Illness (has) (is):	No Likelihood Unlikely	Reasonably Likely 🗸	Highly Likely 🗌 Occ	curred [
	or illness could rea- y be expected to be:	No Lost Workdays ☐ Lo	st Workdays Or Restricted Duty	Permanently Disabiling 🔽	Fatal □
C, Signific	cant and Substantial:	Yes <header-cell> No 🗀</header-cell>		D. Number of Persons Affecte	ed: 008
11. Negligeni	ce (check one)	A. None 🗌 💮 B. Low 🗍	C. Moderate 🗌 D. High	E. Reckless Disn	egard 🗌
12. Type of A	oction 104(d)(1)	13. Type of Is	suance (check one) Citation [Order 🗸 Safeguard 🗌	Written Notice
14. Initial Act A. Citation		C. Safeguard D. Written Notice	E. Citation/ Order Number	8074834 F. Dated	Mo Da Yr 03/17/2009
	ion until a	operator is prohibile miners on the fine concerning the concerning terms of th	3 section are ret		

B. Time (24 Hr. Clock) A. Date Section IV-Automated System Data 19. Type of Inspection 20. Event Number 21. Primary or Mill 4119936 E01 (activity code) 22, Signature 23. AR Number 24308

B. Time (24 Hr. Clock)

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Embudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions: The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MG 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Mine Citation/Order Continuation	er en vægering som		Department of Lab Safety and Health <i>I</i>		4/9/
Section f-Subsequent Action/Continual	ion Data				
1. Subsequent Action 1e. Continu	ation 2. Dated (Original Issue)	Mo Da Yr 04/07/2009	3. Citation/ Order Number 8	082700 - 01	
4. Served To Gary May, Mine Foreman		5. Oper PERF	ator ORMANCE COAI	COMPANY	
6, Mine UPPER BIG BRANCH MI	NE-SOUTH	7. Mine	46-08436		(Contractor)
Section II-Justification for Action		eache wascasconmana	<u>0.000.000.000.000.000.000.000.000.000</u>	************	
Change	From		To		
8. Condition Or Practice	•				•
Reason Change from the "ap	proved roof control plan"	to the "approved ver	itilation plan"		·
12. Type of Action1	104(d)(1)	Ser.	104(d)(2)		No.
Reason	a records to			₹	
14. Initial Action	Citation		Order		
Reason incorrectly marked o	order			•	•
14. E. Citation/Order Number	8074834		8082692		•
Reason inadvertently entered	d d-1 citation number instea	nd of initial d-1 orde	r number	F 1	

Section III-Subsequent Action Take	m	energene inconsegue			to Confedences	See Continuation Form
8. Extended To A. Date Mo	Da Ve	24 Hr. Clock)		C. Vacated	D. Terminated	☑ E Modified
Section IV-Inspection Data 9: Type of Inspection E01	10. Event Numb	er 411993(ĵ			
11. Signature	Lane	AR Number 24308	12. Date	Mo Da Yr 04/07/2009	13. Time (24 Hr. Clo 1617	očķ)

MSHA Form 7000-3a, Mar 85 (revised)

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nt of Labor Health Administration	4/17/9 M
umber 8082700 - 02	
	The second secon
E COAL COMPANY	
)8436 (c	ontractor)
	and an the mine way

All the miners on the #3 section have been retrained on the mine ventilation plan concerning pillars, MSHA has reviewed the mine ventilation plan with management. The Bleeder punch-out has been supported with a triple row of jacks, through the length of the punch through.

Section III-Subsequent Action Taken			See Continuation Form
8. Extended To A. Date Mo Da Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated
Section IV-Inspection Data 9. Type of Inspection E01 10. E			
11. Signature Land Box	AR Number 12. Date 24308	Mo Da Yr 04/09/2009	13. Time (24 Hr. Clock) 1028

MSHA Form 7000-3a, Mar 85 (revised)

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POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration

N

MINEID 4608436 MSHA OFFICE 0401	
mile in the second seco	
COMPANY NAME PERFORMANCE COAL COMPANY	<u>and governous commonwealth and a page</u>
Citation/Order No. 6612410 Date 4-9-09	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO NO If ye	s: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	prompts Annuals
 Did the condition or practice cited create the presence of a high degree of risk to the health and/or safety of miners? Who was exposed to the hazard? (Name and Occupation) 	Yes No X
b) How were they exposed to the hazard?	A STATE OF THE STA
c) When and over what period of time did the exposure occur?	
d) Is this first hand information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the violatio a) Who had this knowledge? (Name and Title) RSUMON C. Brain are (Profession	inal Engineer)
b) How was this knowledge evidenced? Mr. Brainand certified th	e map
c) Is this first hand information? Yes 📉 No 🗌	
If not, who provided the information? [Name and Occupation] 3. Any other pertinent information: mr. Brainard also certified	the 1200
map the was inaccurate	
INSPECTOR'S CONCLUSION:	
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory health	
Inspector AR Number: 24/72 Signature: Comp & Other	Date: 4-9-09
Supervisor: Do you agree with the inspector's conclusion? Yes No [] Signature: 21 14 12 12	Date: 1/12/19
fictions I have	- Sale: 4/17/09
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action.	
Assistant District Manager: Recommendation: (A or Grom the list above)	. 18 <u>3</u> 0
Signature: Such Z Suks	Date: 4/17/69
Supervisory Special Investigator: Recommendation: (A or C from the list above)	
Signature: Lawie 2, Thouse	Date: 4/31/09
District Manager: Action Decision (Ker C from the list above)	26.2
Signature: Well Hardwan +	Date 4/21 (2009)
ADDITIONAL COMMENTS OF REMARKS: Des Mot meet The	arlesse_
for further reduced,	
CASE ASSIGNMENT INFORMATION:	
Investigation Case No Date Ass	igned
tnyestigator Assigned [D No ID No	The same of the sa

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 29 of 156 PageID #: 5676

	**************************************				*	11/19/9/MI
Mine Citati	on/Order	غ غ		U.S. Department Mine Safety and	t of Labor Health Administration	
Section I-Viola	tion Data					
1. Date	Mo Da Yr 04/09/2009	2. Time (24 Hr	. Clock) 320		3. Citation/ Order Numbe	6612410
4. Served To ANDY CC		E FOREMAN	D)	5. Operator PERFORMANC	E COAL COMPAN	Ý
6. Mine				7. Mine ID 46-0)8436	
UPPER BI	G BRANCH M	INE-SOUTH		100	70 100: 	(Contractor)
8. Condition of		CHIMATOSI	ED AN INACCURA	THE WALL METODE	EDDDODNIETNO M	8a. Written Notice (103g)
DISTRIC		FOR APPI	ROVAL ON 3/13/			RATE INFORMATION
			at .	•		•
				.		
2		* 4				
			•			•
	*	•	•		**	
		•	,	•	See Continue	ion Form (MSHA Form 7000-3a)
9. Violation	A. Health	B. Section	l c.	Part/Section of		
	Safety 🗸	of Act		Title 30 CFR	75.372(a)	(1)
Section II_Insp	Other ector's Evaluation					
10. Gravity:		The state of the s				
	ir Illness (has) (is):	No Likelihood	Unlikely 🗸	Reasonably Likely	Highly Likely	Occurred []
	or illness could rea- to be expected to be	No Lost Wo	rkdays 🔲 Lost Work	days Or Restricted Duty	Permanently Di	sabling
	ant and Substantia		No 🗸	- W - W - W - W - W - W - W - W - W - W	D, Number of Pers	sons Affected: 016
11. Negligen	ce (check one)	A. None	B.Low C.N	/loderate ☐ D.	High ☑ E.Red	kless Disregard [
12. Type of A	oction 104(d)(2	2)	13. Type of Issuance	e (check one) Citatio	on ☐ Order ☑ Sal	feguard Written Notice
14. Initial Act A. Citation	ion ☐ B. Order 🕢	C. Safeguard	D. Written Notice	E. Citation/ Order Number	8082692	F. Dated Mo Da Yr 03/17/2009
15. Area or E	iquipment түүг	#2.#3.AN	ID #4 ENTRIES	FOR THE ELLI	S PUNCH OUT I	FOR A DISTANCE
OF 300			ROM THE HIGHWA			
16. Terminati	fon Due A. Date	Mo Da Yr	B. Time (24 Hr. Clock)			
Section III-Ter	mination Action	* * * * **	<u> </u>			
17. Action to	Terminate	2000 200 S				· · · · · · · · · · · · · · · · · · ·
	•		•			
48. Terminat	ed A. Date Mo	Da Yr B. Ti	me (24 Hr. Clock)		<u> </u>	A Secretaria de la Compansión de la Comp
	lomated System Data	<u> </u>				
19. Type of I	nspection code) E01	20. Event Num	^{ber} 4119936	21. Primary or I	Aill	
22. Signature	/ 1	ς.	athe	1	23. AR Numb	^{06f} 24172

MSHA Form 7000-3, Apr 08 (revised In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
	wine carety and Health Authinistration
NINE ID 4608436 MSHA OFFICE	0401
INFNAME Upper Big Branch Mine -	500 th
COMPANYNAME PERFORMANCE COOL COMP	
The research of	a fill the second
Citation/Order No. 16 6 1 2 2 1 1 1 Da	lle
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO ☑ If yes: Fatal? ☐ Non-fatal? ☐
REVIEW CRITERIA: (Attach supplemental information if needed)	ويشتني جي شيئ
. Did the condition or practice cited create the presence of a high degree of risk to the la.) Who was exposed to the hazard? (Name and Occupation)	nealth and/or safety of miners? Yes 🔲 No 🔀
b) How were they exposed to the hazard?	
c) When and over what period of time did the exposure occur?	
d) Is this first hand information? Yes No No II If not, who provided the information? (Name and Occupation)	
Did the operator or agent have actual knowledge, or reason to know, of the facts of c	
	in and protessional Engineer)
a) Who had this knowledge? (Name and Title) RSH MODE C. B. C.	
b) How was this knowledge evidenced? Mr. Brain ard c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain ard also 5	certified the map
b) How was this knowledge evidenced? Mr. Brain ard c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain ard also 5	certified the map
b) How was this knowledge evidenced? Mr. Brain ard c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain ard also 5	certified the map
b) How was this knowledge evidenced? Mr. Brain and of the first hand information? Yes No I frost, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain and also something the formula of the first hand also something the first hand information of the first hand of	certified the map ubmitted an inaccurate he district manager.
b) How was this knowledge evidenced? Mr. Brain and of the information? Yes No I from who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain and also some performance of the perfo	certified the map ubmitted an inaccurate he district manager.
b) How was this knowledge evidenced? Mr. Brain and of this first hand information? Yes No I find, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain and also set of the pertinent information. Mr. Brain and also set of the pertinent information. Mr. Brain and also set of this review, does this appear to be a possible knowing and/or willful violation.	certified the map ubmitted an inaccurate he district manager. on of the Act or mandatory health or safety standard? Yes Dook Other Date: 4-9-09
b) How was this knowledge evidenced? Mr. Brain and of the information? Yes No I from who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain and also semantic for annual review by the NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in the providence of the semantic form of the s	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes DNOX
b) How was this knowledge evidenced? Mr. Brain and occupation) c) Is this first hand information? Yes No [] If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain and also s Map for annual review by t NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: 2 4 1 7 2 Signature: Signature: No [] Supervisor: Do you agree with the inspector's conclusion? Yes D No [] Signature: Maddle POSSIBLE RECOMMENDED ACTIONS:	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes No M Otther Date: 4-9-09
b) How was this knowledge evidenced? Mr. Brain and Occupation) c) Is this first hand information? Yes No If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain and also s Map for annual review by t NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate Inspector AR Number: 2 4 1 7 2 Signature: Signature: No Signature: Signature: Signature: Signature: Signature: C. No further action.	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes No M Otther Date: 4-9-09
b) How was this knowledge evidenced? Mr. Brain and Occupation) 3. Any other pertinent information: Mr. Brain and Occupation) NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: 2 4 1 7 2 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No 7 Signature: Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above)	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes No M Otther Date: 4-9-09
b) How was this knowledge evidenced? Mr. Brain and Occupation) 3. Any other pertinent information: Mr. Brain and Occupation) 3. Any other pertinent information: Mr. Brain and also seem and occupation. NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate Inspector AR Number: 2 4 1 7 2 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes A No Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: A or C from the list above) Signature:	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety slandard? Yes No Mandate: 4-9-09 Date: 4/7/6
b) How was this knowledge evidenced? Mr. Brain and Occupation) 3. Any other pertinent information: Mr. Brain and Occupation) NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: 2 4 1 7 2 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No 7 Signature: Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above)	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety slandard? Yes No Mandate: 4-9-09 Date: 4/7/6
b) How was this knowledge evidenced? Mr Brain 9 fc c) Is this first hand information? Yes No [] If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr Brain and Occupation) 4. Any other pertinent information: Mr Brain and Occupation MSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willfut violate Inspector AR Number: 2 4 1 7 2 Signature: Out S Supervisor: Do you agree with the inspector's conclusion? Yes No [] Signature: C. No further action. Assistant District Manager: Recommendation: C. No further action. Signature: C. No further action. Signature: C. No further action. District Manager: Recommendation: C. A or C from the list above) District Manager: Action Pecision: A factor of form the list above)	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes I No M Date: 4-9-09 Date: 4-12-09 ove)
b) How was this knowledge evidenced? Mr. Brain arc also self-not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain arc also self-not appear to be a possible knowing and/or willful violated inspector AR Number 2 4 1 7 2 Signature: Supervisor: Do you agree with the inspector's conclusion? Yest No signature: C. No further action. Assistant District Manager: Recommendation: Assistant District Manager: Assistant Di	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes I No M Date: 4-9-09 Date: 4-12-09 ove)
b) How was this knowledge evidenced? Mr Brain 9 fc c) Is this first hand information? Yes No If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr Brain and Occupation) 4. Any other pertinent information: Mr Brain and Occupation MSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willfut violated inspector AR Number: 2 4 1 7 2 Signature: Signature: Signature: C. No further action. POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action. Assistant District Manager. Recommendation: (A or C from the list above) Signature: (A or C from the list above) District Manager: Action Decision: A factor of the list above)	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes I No M Date: 4-9-09 Date: 4-12-09 ove)
b) How was this knowledge evidenced? Mr. Brain and occupation of the information? Yes No the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain and also some of this review, does this appear to be a possible knowing and/or willful violate this pector AR Number: 2 4 1 7 2 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No signature: C. No further action. Assistant District Manager: Recommendation: C. (A or C from the list above) Signature: Supervisory Special Investigator: Recommendation: A or C from the list above) Signature: District Manager: Action Decision: H. (A or C from the list above) Signature: District Manager: Action Decision: H. (A or C from the list above) Signature:	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes I No M Date: 4-9-09 Date: 4-12-09 ove)
b) How was this knowledge evidenced? Mr. Brain arc also self-not, who provided the information? (Name and Occupation) 3. Any other pertinent information: Mr. Brain arc also self-not appear to be a possible knowing and/or willful violated inspector AR Number 2 4 1 7 2 Signature: Supervisor: Do you agree with the inspector's conclusion? Yest No signature: C. No further action. Assistant District Manager: Recommendation: Assistant District Manager: Assistant Di	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes I No M Date: 4-9-09 Date: 4-12-09 ove)
b) How was this knowledge evidenced? Mr. Brain and occupation. c) Is this first hand information? Yes No If not, who provided the information? (Name and Occupation). 3. Any other pertinent information: Mr. Brain and also 5 map for an nual reuriew by the NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: 2 417 Z Signature: Signature: No Signature: No Signature: No Signature: No Signature: No C. No further action. Assistant District Manager. Recommendation: A or C from the list above) Signature: Supervisory Special Investigation. Recommendation: A or C from the list above) Signature: Signature: Signature: No Signature:	certified the map ubmitted an inaccurate he district manager. on of the Actor mandatory health or safety standard? Yes I No M Date: 4-9-09 Date: 4-12-09 ove)

MSHA Form 7000-20, June 97 (revised)

WHITE: SPECIAL INVESTIGATOR

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wline Citation/Order		U.S. Department of La Mine Safety and Health		1/17/9MM
Section I-Violation Data		i de la composition de la composition La composition de la		The second secon
1. Date Mo Da Yr 2. Time (24 04/09/2009	Hr. Clock) 1200		3: Citation/ Order Number 6612	411
4. Served To ANDY COALSON (MINE FOREMA	(N)	5. Operator PERFORMANCE CO.	AL COMPANY	, 18. 388 79
6. Mine UPPER BIG BRANCH MINE-SOUT		7. Mine ID 46-08430	5	(Confractor)
8. Condition or Practice	· · · · · · · · · · · · · · · · · · ·		8a. Writt	en Notice (103g)
THE 75.1200 MAP LOCATED DATE AND ACCURATE. THE I TO THE SURFACE TO, WHEN REGULATOR AND AIR LOCK OUT. THE MAP DID NOT SHODROVE IN APPROXIMATELY	MAP SHOWS TWO NA IN FACT THE ENG DOORS INSTALLED DW LINE BRATTICH	TURAL AIR ENTR TRIES ARE NOT. A WHERE THE ENTR	TES AS BEING PU ALSO THE MAP SH TES ARE SHOWN T THE 2 ENTRIES	iów a O Punch
			· · · · · · · · · · · · · · · · · · ·	
	No.		•	
and the second s			See Continuation Form (MS	HA Form 7000-3a)
9. Violation A. Health B. Section Safety ✓ of Act Other □		art/Section of tile 30 CFR	75.1200	
10, Gravity: A, Injury or Illness (fias) (is): No Likelihood B. Injury or Illness could reasonably be expected to be: C. Significant and Substantial: Yes. [11. Negligence (check one) A. None [Vorkdays ☐ Lost Workd	ays Or Restricted Duty 🗸	Permanently Disabling [] D. Number of Persons Affecte	- 010
12. Type of Action 104(d)(2)	13. Type of issuance		Order Safeguard	Written Notice
14. Initial Action A. Citation.	D. Written Notice	E: Citation/ Order Number	82692 F. Dated	Мо Da Yr 03/17/2009
15. Area or Equipment THE #2,#3 1 OF 300 FT. UNDERGROUND	AND #4 ENTRIES E FROM THE HIGHWAI		NCH OUT FOR A	DISTANCE
16. Termination Due A. Date Mo Da Yr	B. Time (24 Hr. Clock)			
Section III-Termination Action				
17. Action to Terminate				
18. Terminated A. Date Mo Da Yr B.	Time (24 Hr. Clock)			
Section IV-Automated System Data				
19. Type of Inspection E01 20. Event No (activity code)	^{imber} 4119936	21. Primary or Mill	•	
22. Signature () Wy E	athey		23. AR Number 2	4172

MSHA Form 700.3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency responsiveriess to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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			1 la with
Mine Citation/Order Continuation		U.S. Department of Labor Mine Safety and Health Adm	inistration 4 719
Section I Subsequent Action/Continuation Data	erente terre di est establishe de la companya de la		
1. Subsequent Action 1a. Continuation	2. Daled Mo Da (Original Issue) 04/09/20		2411 - 01
4. Served to ANDY COALSON (MINE FORE	MAN)	5. Operator PERFORMANCE COAL O	ÖMPANY
6. Mine		7. Mine ID 4.6.00426	(Contractor)
UPPER BIG BRANCH MINE-SO	UTH	46-08436	<u> </u>
Section II - Justification for Action			
Change Fro	om	То	
8. Condition Or Practice			•
#3)AS BEING PUNCHED CONTROLS THAT ARE N THE #3 ENTRY. THE MA	OUT TO THE SURFACE AND NOT PRESENT IN THE #2 EN	THEYRE NOT. ALSO THE T TRY (REGULATOR) AND A S E (CURTAIN) IN THE 2 ENT	ET OF AIR LOCK DOORS IN RES (#2AND #3) WHERE THE
9. A. Violation Type Saf	ety	Other	
Reason	•		
10. A. Injury of Illness Un	likely	No Likelihood	
Reason			
10. B. Injury Expected Los	st Workdays	No Lost Workdays	
Reason			· · · · ·
			· ·
			•
	V.		
		•	
	and the second s		A Company of the Comp
		$\gamma^{ad}\gamma_{c}$ (2.1)	
*	· ·		
		William Control of the Control	
	4		
	•		
	to provide the second s	Section 1995	
			•
	<i>P</i>		
4	-		See Continuation Form

Section III-Subsequent Action Taken

MSHA Form 7000-3a, Mar 85 (revised)

A. Date

B. Time (24 Hr. Clock)

4119936

12. Date

AR Number

24172

10, Event Number

8. Extended To

11 Signature

Section IV-Inspection Data

9. Type of Inspection - E01

Mo Da

C Vacated D D Terminated

Ϋ́г

04/10/2009

13. Time (24 Hr. Clock)

0829

E. Modified

Case 5:14-cr-00244 | Document 311-4 | Filed 08/18/15 | Page 33 of 156 PageID #: 5680

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 460 8436	ISHA OFFICE	0401		
MINENAME Upper Big Branch Mi		outh	<u> </u>	
COMPANY NAME PERFORMANCE COAL	- A	panu	i de la compositación de 	· rest
The second secon		Free control of the second	9	*************************************
Citation/Order No. 66 12 4 120	Dale_	<u> </u>		
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury?	YES[]	NO X	if yes: Fatal? ☐	Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)		• • • • • • • • • • • • • • • • • • • •	·: •	
1. Did the condition or practice cited create the presence of a high degree	of risk to the healt	th and/or safety of m	iners? Yes L	No 🄀
a) Who was exposed to the hazard? (Name and Occupation)			•	
b) How were they exposed to the hazard?				
c) When and over what period of time did the exposure occur?	· · · · · · · · · · · · · · · · · · ·			
d) Is this first hand information? Yes No No () If not, who provided the information? (Name and Occupation)				
2. Did the operator or agent have actual knowledge, or reason to know, of a) Who had this knowledge? (Name and Title) And y	alson_	(Mine f	oreman)	No 🗀
b) How was this knowledge evidenced? These two	entri	es mer	e on th	1 E
c) is this first hand information? Yes No I not, who provided the information? (Name and Occupation) 3. Any other pertinent information:		 	2000 - 1	
			and the second second	
		·		- 11
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/o	or willful violation o	f the Act or mandate	ory health or safety stand	lard? Yes⊡ No 🏝
Inspector AR Number: 2 LI [7] Z Signature: 0 000	1 <u>5</u> (Ithey	Date: 니	-9-09
Supervisor: Do you agree with the inspertor sconclusion? Yes	1/6 U /		Date: 4	117/09
POSSIBLE RECOMMENDED ACTIONS:	a Galania			
and the second s	ner action.	• •		
Assistant District Manager: Recommendation: (A or C from the Signature:	e list above)		Date: 4	6 10.09
- Jan Jan	}~ } }	<u> </u>	Date:	-1/10/
Supervisory Special Investigator: Recommendation (A pr of Signature: Land 2, Lander	rom the list above)	· · · · · · · · · · · · · · · · · · ·	Date: 4	121/09
District Manager: Agion Decision: J. Hor C from the list above) Signature: Hand J. Handhard		·	, Date: #	121/1009
ADDITIONAL COMMENTS OR REMARKS: Les Ma	t me	et the	enter	a Per
further senses.				
CASE ASSIGNMENT INFORMATION:			<u></u>	<u></u>
Investigation Case No.		<u>i.</u>	Date Assigned	
Investigator Assigned			ID No	
Ministration of the state of th				

WHITE: SPECIAL INVESTIGATOR

5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 34 of 156 PageID #: 5681

4/17/	lqmH
71 "	

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration		
Section I—Violation Data			
1. Date Mo Da Yr 2: Time (24 Hr. Clock) 04/09/2009 1210	3. Citation/ Order Number 6612412		
4. Served To ANDY COALSON (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)		
8. Condition or Practice	8a, Written Notice (103g)		
THE OPERATOR HAS FAILED TO CONDUCT WEED ARE NOT CONNECTED AT THE ELLIS PUNCH OF APPROXIMATELY 150 FT. WITH LINE BRATTICE.	UT. THESE ENTRIES ARE DROVE IN		
2			
	W.		
er e			
V			
	See Continuation Form (MSHA Form 7000-3a)		
	Part/Section of itle 30 CFR 75,364(a)		
Section II-Inspector's Evaluation	A Committee of the Comm		
10. Gravity: A. Injury or Illness (has) (is): No Likelihood [Unlikely []	Reasonably Likely Highly Likely Occurred		
B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays	lays Or Restricted Duty 🗹 Permanently Disabiling 🗍 Fatal 🗍		
C. Significant and Substantial: Yes ☐ No ☑	D. Number of Persons Affected: 016		
11. Negligence (check one) A. None B. Low C. M	oderate D. High 🕢 E. Reckless Disregard 🗌		
12. Type of Action 104(d)(2) 13. Type of Issuance	(check one) Citation ☐ Order ☑ Safeguard ☐ Written Notice ☐		
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009		
15 Area or Equipment THE #2, #3, AND #4 ENTRIES 1 OF 300 FT. UNDERGROUND FROM THE HIGHWAI	FOR THE ELLIS PUNCH OUT FOR A DISTANCE LL.		
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)			
Section III-Termination Action			
17. Action to Terminate			
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)			
Section IV-Automated System Data	<u>annon an article de la companya de</u>		
19. Type of Inspection (activity code) E01 20. Event Number 4119936	21. Primary or Mill		
22. Signature A	23 AR Number		

MSHA Form 7000-3. Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-988-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, OC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Realth Review Commission.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 35 of 156 PageID #: 5682

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	Mine Safety and Health Administration
MINE ID 4608436 MSHA OFFICE	20401
MINENAME Uffer Big Branch - Surh	
COMPANY NAME Performance Coal Co	
Citation/Order No. 8082 734 Da	ito 4/21/07
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO If yes: Fatal? I Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	and and
 Did the condition or practice cited create the presence of a high degree of risk to the h Who was exposed to the hazard? (Name and Occupation) 	
Rick Foster, Charle Semenske, Fine bosses (Worldy Examiners)
Rick Foster, Charles Se Menske, Free bosses (b) How were they exposed to the hazard? They trouveled by the c	ina entry week
c) When and over what period of time did the exposure occur? Lost week / Weekly - indefinite - no record or DT1's to d) is this first hand information? Yes No large and Occupation)	indirecto exem ever account
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or ca) Who had this knowledge? (Name and Title) 15 11 11 11 11 11 11 11 11 11 11 11 11	conditions constituting the violation? Yes No
b) How was this knowledge evidenced? He was aware through MS	SNA conference - previous entertra - order
c) Is this first hand information? Yes No	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation. Inspector AR Number: 24308 Signature:	ion of the Act or mandatory health or safety standard? Yes☐ No ☐ Sale: 4/21/09
Supervisor: Do you agree with the Inspector's conclusion? Yes No	Date: 4/22/09
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation. C. No further action.	
Assistant District Manager: Recommendation: (A or C from the list above)	
Signature: The ZAG	Date: 4/36/69
Supervisory Special investigators Recommendation: A or C from the list ab	Date: 5/1/64
District Manager Action Ordising: A or C from the list above) Signature:	Date: 5/4/2009
ADDITIONAL COMMENTS OR REMARKS:	
CASE ASSIGNMENT INFORMATION:	<u>, , , , , , , , , , , , , , , , , , , </u>
Investigation Case No.	Date Assigned
Investigator Assigned	ID Nö.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 36 of 156 PageID #: 5683 4122/9MH Mine Citation/Order U.S. Department of Labor Mine Safety and Health Administration Section I-Violation Data 3. Citation/ 1. Date Mo Da Yr 2. Time (24 Hr. Clock) 8082734 Order Number 04/21/2009 0842 4. Served To 5. Operator PERFORMANCE COAL COMPANY Rick Foster, Mine Foreman 6. Mine 7. Mine ID 46-08436 UPPER BIG BRANCH MINE-SOUTH (Contractor) 8a. Written Notice (103g) 8. Condition or Practice The operator is failing to conduct a preshift exam of the unconnected room driven 25' deep off the #4 section intake at spad 5738. The room is ventilated with line curtain. See Continuation Form (MSHA Form 7000-3a) 9. Violation A. Health B. Section C. Part/Section of Safety 🗸 Title 30 CFR of Act 75.360(b)(6)(ii) Other Section II-Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely V Reasonably Likely Highly Likely Occurred B. Injury or illness could rea-No Lost Workdays 🔽 Lost Workdays Or Restricted Duty Permanently Disabling Fatal sonably be expected to be: D. Number of Persons Affected: C. Significant and Substantial: Yes [No 🗸 001 11. Negligence (check one) A, None [B. Low C. Moderate D. High 🔽 E. Reckless Disregard [Order 🗸 Citation Safeguard [12. Type of Action 13. Type of Issuance (check one) Written Notice 104(d)(2)14. Initial Action E. Citation/ F. Dated Mo Da Yr 8082692 A. Citation B. Order C. Safeguard D. Written Notice Order Number 03/17/2009 15. Area or Equipment The #4 section intake. Mo Da 16. Termination Due A. Date B. Time (24 Hr. Clock) Section III-Termination Action 17. Action to Terminate The room has been examined. 18. Terminated Mo Da Yr A. Date B. Time (24 Hr. Clock) 0845 04/21/2009 Section IV-Automated System Data

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DG 20416. Please note; however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to confest citations and proposed panalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

4119936

21. Primary or Mill

23. AR Number

24308

19. Type of inspection

(activity code)

20. Event Number

E01

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 46-08436 MSHA OFFIC	DE 2040/
MINENAME LYPY BIX BOARD - SOLYL	
COMPANYNAME Performance Coal Co	The second secon
Cara well	Date 5/11/09
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO If yes: Fatai? . Non-fatal? .
REVIEW CRITERIA: (Attach supplemental information if needed)	
1. Did the condition or practice cited create the presence of a high degree of risk to the	e health and/or safety of miners? Yes 🔲 🕦 No 🕼
a) Who was exposed to the hazard? (Name and Occupation)	
Charlee Semenshy, weekly examine	and the second s
b) How were they exposed to the hazard? No 250 You wealth	NAMAN <u>a</u> U
c) When and over what period of time did the exposure occur? 5/11/09	100 - 1200
d) Is this first hand information? Yes Mo No No No I I not, who provided the information? (Name and Occupation)	
Did the operator or agent have actual knowledge, or reason to know, of the facts o Who had this knowledge? (Name and Title)	conditions constituting the violation? Yes No No
b) How was this knowledge evidenced? he Counts in all The	weelth lank and
c) Is this first hand information? Yes No No If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viol	ation of the Act or mandatory health or safety standard? Yes⊡ No.[[2
Inspector AR Number: 24308 Signature: L	Date: 5/12/09
Supervisor: Do you agree with the inspector's conclusion? Yes No Signature:	Date: 5/12/09
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation. C. No further action.	
Assistant District Manager: Recommendation: (A or C from the list above Signature:) Date: 57,44,59
Supervisory Special Investigator Recommendation Communication Communicat	above) Date: 5 /26/22
District Manager Action Decisions Cy (Afor C from the list above) Signature:	Date: 5/26/2009
ADDITIONAL COMMENTS OR REMARKS: TWA DO T	in does not must
the criteria for further	rediedi
CASE ASSIGNMENT INFORMATION;	
	Data Arabanad
Investigation Case No.	Date Assigned

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Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section ("Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) .05/11/2009 1132	3. Citation/ Order Number 8082764
4. Served To Charley Semenske, Weekly Examiner	5. Operator PERFORMANCE COAL COMPANY
6. Mine	A MARK TA
UPPER BIG BRANCH MINE-SOUTH	7 Mine ID 46-08436 (Contractor)
8. Condition or Practice	8a. Written Notice (103g)
	ination for hazardous conditions has been te, Dates, Times and Initials present in
A	
	See Continuation Form (MSHA Form 7000-3a)
9. Violation A. Health B. Section C Safety Of Act Other	Part/Section of Title 30 CFR 75.364(g)
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely V	Reasonably Likely Highly Likely Occurred
P. Jajany or illness could rea	rkdays Or Restricted Duty Permanently Disabling 📝 Fatal 🗌
C. Significant and Substantial: Yes ☐ No ☑	D. Number of Persons Affected: 001
11. Negligence (check one) A. None B. Low G.	Moderate ☐ D. High ☑ E. Reckless Disregard ☐
12. Type of Action 104(d)(2) 13. Type of Issuance	e (check one) Citation 🗌 Order 🗹 Safeguard 🗍 Written Notice 🗍
14. Initial Action A. Citation B. Order Z C. Safeguard D. Written Notice	E. Citation/ 8082692 F. Dated Mo Da: Yr 07der Number 03/17/2009
15. Area or Equipment The right return were it head.	travels around the panel off of LBB #4
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III-Termination Action	
17. Action to Terminate The area has been examine	ed and DTI are now present.
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)	1135

MSHA Form 7000-3, Apr 06 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about tederal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MO 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

4119936

21. Primary or Mill

23. AR Number

24308

Section IV-Automated System Data

E01

20, Event Number

19. Type of Inspection

(activity code)

22. Signature

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POSSIBLE KNOWINĞ/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 46-08436 MSHA OFFIC	E 2090/
MINENAME Upper Big Branch - South	
COMPANY NAME PENGEMANNO COST CO	The second secon
Citation/Order No. <u>5082763</u>	pate 5/11/09
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO If yes: Fatal? I Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
Did the condition or practice cited create the presence of a high degree of risk to the a) Who was exposed to the hazard? (Name and Occupation) Charlie Sewanske, weekly exominate b) How were they exposed to the hazard? He was the exominate	
c) When and over what period of time did the exposure occur? 3/23/09 =	*
d) Is this first hand information? Yes No	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or a) Who had this knowledge? (Name and Title) Samy Way, Wire to b) How was this knowledge evidenced? The Sight of the problem is	G. Minking
c) Is this first hand information? Yes No U If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	
Supervisor: Do you agree with the inspector's conclusion? Yes D No D Signature: MAN A MAN	tion of the Act or mandatory health or safety standard? Yes No B Date: 5/12/09 Date: 5/12/09
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action. Assistant District Manager—Recognized dation: (A great from the list above)	
Signature: Such L fely Sy	Date: 5114/09
Supervisory Special Investigator. Recommendation: A feor G from the list a Signature:	Date: 5/36/09
District Manager Action Decision (Ayor C from the list above) Signature:	Date: 5/26/2009
ADDITIONAL COMMENTS OR REMARKS: This I plate the	in day not mest
CASE ASSIGNMENT INFORMATION:	and the second s
Investigation Case No.	Date Assigned
Investigator Assigned	ID No:

WHITE: SPECIAL INVESTIGATOR

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 40 of 156 PageID #: 5687

.ine Citation/Order

22. Signature

U.S. Department of Labor

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 Acres				

				Mine S	afety and He	alth Adminis	tration	
Section I-Violati	on Data	· · · · · · · · · · · · · · · · · · ·		785488				· · · · · · · · · · · · · · · · · · ·
1. Date	Mo Da Yr 05/11/2009	2. Time (24 Hr. C				3, Citation Order N	umber 80827	63
4, Served To		_		5. Opera				
	nenske, Weekly	Examiner			ORMANCE (COAL COM	PANY	
6. Mine	G BRANCH MI	KIE. GAI TEI		7. Mine	^{ID} 46-08	436	, ,	(Contractor)
8. Condition of		NE-SUUTH		<u> </u>	11. 12.11 M. 12.1		8a. Writter	Notice (103g)
The ope course, split g The int intake spad 21 dangere	rator is f in its en oing towar ake is blo has been d 539. This	tirety, s ds the El cked by t angered c condition	examine a to the entile of the	re air out is out is out is out is out is out is out to be outed on	course is not being breaks and bad n 03/23/0	s travel g examin out-by ribs fro 19 and th	ch intake ed. The LE ed in its spad 21054 om spad 21 ne intake	air BB intake entirety, and the 054 to was
		· · · · · · · · · · · · · · · · · · ·				See Co	ilinuation Form (MSH	A Form 7000-3a)
9. Violation	Safety ✔ Other	3. Section of Act		C. Part/Section Title 30 CFI		75,36	4(b)(1)	
	ctor's Evaluation				1			
10. Gravity: A. Injury or	Iliness (has) (is):	No Likelihood	Unlikely 🗸	Reason	ably Likely	Highly Likely	Occur	red :
B. Injury or	illness could rea-	No Lost Work	1000	2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	estricted Duty		ntly Disabling	Fatal []
	be expected to be: nt and Substantial:	Yes 🗌	No 🗹	<u> </u>			Persons Affected:	001
11. Negligence	(check one)	A. None 🔲	B. Low 🔲	C. Moderate [] D. Hig	h 🗹	E. Reckless Disrega	ird 🗍
12. Type of Ac	tion 104(d)(2)		13. Type of Issu	ance (check one) Citation [Order 🔽	Safeguard []	Written Notice
14. Initial Actio A. Citation		C. Safeguard [D. Written Notice	E. Citalion	n/ Vumber	8082692	F. Dated	Mo Da Yr 03/17/2009
15. Area or Eq	ulpment The	LBB intak	e split go	ing towa	irds the	Ellis pu	nch-out.	
16. Termination	n Due A. Date	Mo Da Yr	B. Time (24 Hr. Cloc	k)				
Section III-Term							· · · · · · · · · · · · · · · · · · ·	
17. Action to T	erminate						à.	
18. Terminated	A Date	a Yr 8. Time	(24 Hr. Clock)		I			
Section IV—Auto 19. Type of Ins	mated System Data	20. Event Number		2	Primary or Mill	1		<u> </u>
(activity co	de) E01	and making thing th	4119930	5] "	the tradestate and residence	- F		

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fatness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fatness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 and Street, SW. MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

23. AR Number

24308

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 41 of 156 PageID #: 5688 Mine Citation/Order Continuation U.S. Department of Labor Mine Safety and Health Administration Section I-Subsequent Action/Continuation Data 3. Citation/ Order Number 8082763 - 01 1. Subsequent Action 1a. Continuation 2. Dated (Original Issue) 05/11/2009 4. Served To 5. Operator PERFORMANCE COAL COMPANY Homer Wallace, Supt. 7, Mine ID 6. Mine (Contractor) 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II-Justification for Action To Change From 8. Condition Or Practice Reason Change spad 21054 to spad 21254.

en de serviciones de la compansión de la c	eng. Tanah ma <u>rang mengangan panggan panggan panggan panggan</u>		See Continuation Form
Section IIISubsequent Action Taken			
8. Extended To A. Date Mo Da	Yr B. Time (24 Hr. Clock)	C. Vacated	D. Terminated E. Modified
Section IV-Inspection Data			
9. Type of Inspection E01	10. Event Number 41 19936		ge description
11. Signature	AR Number 24308	12. Date Mo Da Yr 05/12/2009	13. Time (24 Hr. Clock) 1146

MSHA Form 7000-3a, Mar 85 (revised)

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POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidentia), Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 46-08456 MSHA OFFICE 2040/	
MINENAME Upper Biz Branch - South	
COMPANY NAME PERFORMANCO COOL CO	
Citation/Order No. 8082762 Date 5/11/09	· · · · · · · · · · · · · · · · · · ·
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO If	yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	and the same of th
 Did the condition or practice cited create the presence of a high degree of risk to the health and/or safety of miners? Who was exposed to the hazard? (Name and Occupation) 	
Charles Sementsky, weekly examiner b) How were they exposed to the hazard? No made the examinent of the next	week.
c) When and over what period of time did the exposure occur? 5/11/09 - 1030 - 1130	
d) is this first hand information? Yes No \(\bigcirc\) No \(\bigcirc\) If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the violatia) Who had this knowledge? (Name and Title) Audit Coolson, who had this knowledge?	
b) How was this knowledge evidenced? He Signal Hu book that he had examinal	this auseu
c) Is this first hand information? Yes No	
	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory hea	tin an andati arandasin Vas 🗀 🛍
Inspector AR Number: 24308 Signature: W-A- Low III	Date: 5/2/09
Supervisor: Do you agree with the inspector's conclusion? Yes No D William San Signature: Manual D. Vicks	e Date: 5/12/09
POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further action.	**************************************
Assistant District Manager: Recommendation: (A or C from the list above) Signature:	Date: 51/408
Supervisory Special Investigator: Recommendation: 15 (AGC from the list above) Signature: 5 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Date: 5/26/09
District Manager: Sction Decision: CAA or Cfrom the list above) Signature: Alexander CAA or Cfrom the list above)	Date: 5/26/2009
additional comments or remarks: This violation does	not meet.
- por une an fra pour	
CASE ASSIGNMENT INFORMATION:	<u>an de la grapa partir de la companya de la company</u>
Investigation Case No Date A	ssigned
Investigator AssignedID No.	

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ine Citation/Order

22 Signature

U.S. Department of Labor

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Mino aixidin atad	Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 05/11/2009 1044	3. Citation/ Order Number 8082762
4. Served To	5. Operator
Charley Semenske, Weekly Examiner	PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition of Practice	8a. Wriften Notice (103g)
The operator is failing to certify week and Initials in the examined area. Ther and Initials present in the neutral ent that a weekly examination has been cond	ries going towards DPP # 1 to prove
•	
AVERYOR FOR BELLIA	See Continuation Form (MSHA Form 7000-3a)
	art/Section of le 30 CFR 75.364(g)
Section II-Inspector's Evaluation	
10. Gravily: A. Injury of Illness (has) (is): No Likelihood ☐ Unlikely ☑	Reasonably Likely Highly Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workd	ays Or Restricted Duty 🔲 Permanently Disabiling 📝 Fatal 🔲
C. Significant and Substantial: Yes No 🗹	D. Number of Persons Affected: 001
11. Negligence (check one) A. None 🔲 B. Low 🔲 C. Mo	derate ☐ D, High ☑ E, Reckless Disregard ☐
12. Type of Action 104(d)(2) 13. Type of issuance (c	check one) Citation Order V Safeguard Written Notice
14. Initial Action A: Citation ☐ B: Order ☑ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15 Area or Equipment Natural entries from LBB #	4 head to DPF #1.
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III-Termination Action	
17.Addonto Terminate The area has been examined	and DTI's are now present.
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) 1(Section IV: Automated System Data	950
19. Type of Inispection (activity code) E01 20. Event Number 4119936	21. Primary or Mill
22 Signature	23. AR Number 24209

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996; the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please role, however, that your right to life a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

24308

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 44 of 156 PageID #: 5691 Mine Citation/Order U.S. Department of Labor Continuation Mine Safety and Health Administration Section I-Subsequent Action/Continuation Data 2. Dated 1. Subsequent Action 1a. Continuation Da 3. Citation/ Order Number 8082762 - 01 (Original Issue) 05/11/2009 4. Served To Operator Charley Semenske, Weekly Examiner PERFORMANCE COAL COMPANY

7. Mine ID

46-08436

To

15. Area or Equipment

Section II-Justification for Action

6. Mine

Change

Reason Change the word "Natural" to read "neutral"

From

UPPER BIG BRANCH MINE-SOUTH

	<u> </u>	17 <u>-44</u> - <u>- 1888 - 1</u>	<u> </u>			See Continuation Form
8. Extended To A. Date Mo Da	Yr B. Time	24 Hr. Clock)	The same of the same	<u> </u>	D. Terminated	☑ E. Modified
Section IV-Inspection Data						
9. Type of Inspection E01	10. Event Numl	oer 4119936	-			
11. Signature	~ 4	AR Number 24308	12. Date	Mo Da Yr 05/12/2009	13. Time (24 Hr. Cl 1153	ock)

(Contractor)

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 45 of 156 PageID #: 5692

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 44-08436 MSHA OFFICE	20401
COMPANY NAME REFORMAND COAL CO	The world of the second of
(CA) 71 m	C/12/138
Citation/Order No. 2012 16 Date	3/140/
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO D If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Altach supplemental information if needed)	
1. Did the condition or practice clied create the presence of a high degree of risk to the hea	alth and/or safety of miners? Yes No
a) Who was exposed to the hazard? (Name and Occupation)	
Charles Sewerske, weekly examine	
b) How were they exposed to the hazard?	Marina
c) When and over what period of time did the exposure occur? Of these to Thomas Seusale, weekly examples	he post 2 yrs according in
d) Is this first hand information? Yes : No What I have seen to the information? (Name and Occupation).	ususke, weelely examina.
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or con-	
a) Who had this knowledge? (Name and Title) How Walloce Supt Go	
b) How was this knowledge evidenced? The maps and II so to location and Homer Wolland hard trave	howed the EPIS proper head to these EPIS or 5/7/09.
c) Is this first hand information? Yes No Information? (Name and Occupation) 3. Any other pertinent information:	
	- Control of Control o
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation	of the Act or mandalory health or safety standard? Yes⊟ No ఆ
Inspector AR Number: 24308 Signature:	Date: 5/12/09
$\sim 11 \sim 1$	illiam Bane Date: 5/19/1001
-// 124WUU / 1 / V AUI	Date. 3/10/09
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action.	
Assistant District Manager. Recommendation: (A.or C from the list above)	en e
Signature: Arrol Z Lole X	Date: 5/24/69
Supervisory Special Investigator, Recommendation 12 4 or office the list above	(a)
Signature: Law It Hode	Date: 5/96/89
District Manager: Action Decision: C. (A'or C from the list above) Signature:	Date: 5/26/2009
ADDITIONAL COMMENTS OR REMARKS:	does not most
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	eview, mes mesc.
CASE ASSIGNMENT INFORMATION:	i
Investigation Case No.	Date Assigned
Investigator Assigned	ID No

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 46 of 156 PageID #: 5693

		14.	****	
۰	N. 11 i		diam'r.	77
	1171#f 164		14 14 17 17	I JIMOF
ı.	I A SECTION		irioi k	Order

U.S. Department of Labor Mine Safety and Health Administration

	and and and and an				
Section I-Violation Data	the control of the co				
1. Date Mo-Da Yr , 2. Time (24 Hr. Glock) 05/12/2009 1157	3. Citation/ Order Number 8082767				
4. Served To Homer Wallace, Supt.	5. Operator PERFORMANČE COAL COMPANY				
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)				
8. Condition or Practice	8a, Written Notice (103g)				

The mine operator is failing to comply with the approved mine ventilation plan. The operator is failing to examine EP's 53 and 54 in the location approved in the mine ventilation map.

				See Continuation	Form (MSHA	Form 7000-3a)
9. Violation A. Health ☐ B. Section Safety ✓ of Act Other ☐	•	C, Part/Section of Title 30 CFR		75.370(a)(1)	
Section It-Inspector's Evaluation			······································			· · · · · · · · · · · · · · · · · · ·
10. Gravity:						
A. Injury or Illness (has) (is): No Likelihood	i ☐ Unlikely 🔽	Reasonably Li	kely 🔲 Hig	ihly Likely 🔲	Occurre	d 🗍
B. Injury or illness could rea- sonably be expected to be: No Lost V	Workdays 🕢 Lost W	orkdays Or Restricte	d Duty 🔲 🕺	Permanently Disa	bling 🗍	Fatal [
C. Significant and Substantial: Yes [□ No ☑	· 	D.	Number of Persor	ns Affected:	001
11. Negligence (check one) A. None	B. Low 🗌	C. Moderate 🗌	D. High 🗸	E. Reckl	ess Disregar	# 🗓
12. Type of Action 104(d)(2)	13. Type of Issu	ance (check one)	Citation 🔲 C	rder 🔽 Safeç	juard 🔲 🛝 🕽	Written Notice 🗌
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard	D. Written Notice	E. Citation/ Order Numb	er 8082	692 F	Dated	Mo Da Yr 03/17/2009
15 Area or Equiphrent RP (\$ 53 and	d 54.					
16. Termination Due A. Date Mo Da Yr	B. Time (24 Hr. Clo	ck)		·		
Section III-Termination Action			<u>,</u>	9		
17. Action to Terminate		** **				
18. Terminated A. Date Mo.Da Yr B.	Time (24 Hr. Clock		•	<u> </u>		
Section IVAutomated System Data				The second secon	, , , , , , , , , , , , , , , , , , ,	
19. Type of Inspection (activity code) E01 20. Event No.	umber 4119936	21. Prim	ary or Mill			
22. Signature			<u> </u>	23. AR Number	2430)8

MSHA Form 7000-3; Apr 98 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Sures, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 47 of 156 PageID #: 5694

7. Mine ID

46-08436

Aine Citation/Order			epartment of L		7 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
<u> Zontinuation</u>		Mine S	afety and Healt	h Administration	
ection i-Subsequent Action/Continuation Data			20		<u> </u>
. Subsequent Action 1a, Continuation	2. Dated	Mo Da Yr	3. Citation/	8082767 - 01	
2	(Original Issue)	05/12/2009	Order Number	0002707 - 01	
. Served To	, (Fats 1 to Time 1 to 1 to 1	5. Opera	lor	1 <u>111 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 </u>	
Tomer Wallace, Supt.		PERFO	RMANCE CO	AL COMPANY	

The weekly examiner have been retrained as to the proper location to check EP 53 and 54.

Section IIISubsequent Action Taken			
8. Extended To A. Date Mo Da	Yr 8. Time (24 Hr. Clock)	C. Vacated	D. Terminated
Section IV—inspection Data 9. Type of Inspection E01	10. Event Number 41 19936		
11. Signalure	AR Number 12 Date 24308	Mo Da Yr 05/18/2009	13. Time (24 Hr. Clock) 0742

MSHA Form 7000-3a, Mar 85 (revised)

6. Mine

UPPER BIG BRANCH MINE-SOUTH

Section II Justification for Action

(Contractor)

Case 5:14-cr-00244: Document 311-4 Filed 08/18/15 Page 48 of 156 PageID #: 5695

POSSIBLE KNOWING/WILLFUL VIOLATIC REVIEW FORM	U.S. Department of Labor
(Confidential, Pre-decisional information)	Mine Safety and Health Administration .
ill senti	o wal
INE ID 46-08436 MSHA OFFICE	20401
INENAME Upper Big Branch - South	
COMPANYNAME PERFORMANCE COOL CO	
Citation/Order No. 24828/9 Da	ate 6/3/09
ACCIDENT INFORMATION: Vas this violation associated with an accident which caused an injury? YES	NO V if yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	Chal
. Did the condition or practice cited create the presence of a high degree of risk to the	health and/or safety of miners? Yes 🗌 No 🖳 william
a) Who was exposed to the hazard? (Name and Occupation) Ask Market Form	on Tenek Kistinger, Ekstraton Charles Sullham C Malvin Lunch
Alvis Aldrimon RB. Abrev Shunder C/M Scott Martin b) How were they exposed to the hazard? They trouble through	R/B ChickSmith KB Josh William & Rogertamy 4
c) When and over what period of time did the exposure occur? 5/30/09	40 6/3/08
d) Is this first hand information? Yes No No No. (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or	conditions constituting the violation? Yes No
a) Who had this knowledge? (Name and Tille) Andy Coalson, www.	
b) How was this knowledge evidenced? He admitted to WSHA he how ser out to belt. He Acidos to ensure en	with more mader to the and 20'
c) Is this first hand information? Yes No	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violated the property of the property	
Supervisor: Do you agree with the inspector's condition? Yes Yes	<u> </u>
Signature:	Date: (0/8/09
POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further action.	
Assistant District Manager. Recommendation: C (A or Ofrom the list above)	
Signature: X , J Y 7 AS	Date: (/// 9
Supervisory Special Investigator, Recommendation (Apr C from the list at	O I I I I
Supervisory Special Investigator Legicommunications (April Chorn the list at	Date: 6/11/09
	Udie 27/1/27
District Manager: Action Decision: (A/d/ C from the list above) Signature:	Date: 6/12/2009
ADDITIONAL COMMENTS OR REMARKS: 76) 1	The wot
recommended for Par	The review of
The issume inspects	324
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investidator Assigned	ID No.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 49 of 156 PageID #. 5696

...ine Citation/Order

U.S. Department of Labor Mine Safety and Health Administration

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×.	V	
		7
	~	•

		rigi 1991 <u>- 1990 - Andreas Andreas (</u>	Manganawanga <u>n Nakali</u> Ras	Mine Safe	y and Healt	h Administ	ration .	
Section J-Viola	100,000,000		- 10 - 10 - 10 - 10 - 10 - 10 - 10 - 10					
1. Date	Mo Da Yr 06/03/2009	2. Time (24 Hr. Clo 105				3. Citation/ Order No	mber 80828	319
4. Served To	4. Served To					 		
Gary May, Mine Foreman 6. Mine UPPER BIG BRANCH MINE-SOUTH				PERFORM	AANCE CO	AL COM	PANY	
				7. Mine ID	7. Mine ID 46-08436			
8. Condition of Practice					8a. Written Not			
entry o	on the #1 le to allo	failing to section was we for the ditional s	s mined ov belt and t	er 20 wide rack to be	The o	perator same e	cuts thi	s entry
•								į. į
	*		٠,					
	·						•	
9. Violation	A. Health ☐ Safety ✓ Other	B. Section of Act	· · · · · · · · · · · · · · · · · · ·	C. Part/Section of Title 30 CFR	1. 1.114444.11		linualion Form (MS): 03(a)	A Form 7000-3a)
Section II-Insp	ector's Evaluation				 			
10. Gravity:	rlliness (has) (is):	No Likelihood 🔲	Unlikely 🔽	Reasonably L	ikely [Highly Likely	Occur	red 📋
	illness could rea- be expected to be:	No Lost Workd	ays 🗌 Lost i	Workdays Or Restrict	ed Duty 🔲	Permanen	tly Disabling 🔽	Fatal 🔲
C. Signific	ant and Substantial:	Yes 🗍	No 🔽			D. Number of	Persons Affected:	011
11. Negligeno	e (check one)	A, None	B. Low	C. Moderate 🔲	D. High	☑ E	. Reckless Disrega	ard 🗌
12. Type of A	ction 104(d)(2	2)	13. Type of Issu	ance (check one)	Citation [Order 🗸	Safeguard 🗌	Written Notice 🗌
14 Initial Acti A. Citation		C, Safeguard	D. Written Notice	E. Citation/ Order Numb	er 80	82692	F. Dated	Mo Da Yr 03/17/2009
15. Area or Eduntil 6	V . —	#3 belt of support is						ice

MSHA Form 7000:3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small business about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-784-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd. Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine. Safety and Health Review Commission.

1426

The operator has set sand jacks for the length of the affected

21. Primary or Mill

23. AR Number

24308

B. Time (24 Hr. Clock)

4119936

B. Time (24 Hr. Clock)

Mo Da Yr

20. Event Number

A. Date

E01

Mo Da Yr

06/03/2009

Kany

16. Termination Due

Section III-Termination Action

A. Date

Section IV-Automated System Data

17. Action to Terminate

19. Type of Inspection

(activity code)

areas.

18. Terminaled

22. Signature

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 50 of 156 PageID #: 5697

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
NINE ID 46-08436 MSHA O	FFICE 20401
INENAME Upper Big Branch - South	
COMPANY NAME PERFORMANCE COST CO	
Sitation/Order No. 808283/	Date 6/8/09
Manor Order No. 228252	Date
CCIDENT INFORMATION: Vas this violation associated with an accident which caused an injury? YE	S□ NO If yes: Fatal? □ Non-fatal? □
REVIEW GRITERIA: (Attach supplemental information if needed)	pa de Santa 💆
Did the condition or practice cited create the presence of a high degree of risk	to the health and/or safety of miners? Yes [] No []
a) Who was exposed to the hazard? (Name and Occupation) All Loug &	loel Price Dewey Persinger Chad Bown Ko
Birthow were they exposed to the hazard? The incorrect neutile	
c) When and over what period of time did the exposure occur? 6/1/09 -	4/8/09
d) is this first hand information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation)	
	wine from superentendant que books.
b) How was this knowledge evidenced? only to wentible this This was becomed by interview with hand	Francisco NA
c) is this first hand information? Yes \(\subseteq No \(\subseteq \) \\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	
3. Any other pertinent information:	TO THE RESIDENCE OF THE PARTY O
NSPECTOR'S CONCLUSION:	· · · · · · · · · · · · · · · · · · ·
Based on this review, does this appear to be a possible knowing and/or willfu	l violation of the Act or mandatory health or safety standard? Yes⊟ No 🗷
Inspector AR Number: 24308 Signature: William	- Bane Date: 6/9/09
Supervisor: Do you agree with the inspector's conglusion? Yes No	
Signature: Much N X 10R	Date: 6/10/0
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation. C. No further acti	
Assistant District Manager: Recommendation: (A or C from the list al	
Signature: Signature:	Date: 6/15/09
	list above)
Signature: David Modes	Date: 6/04/09
District Manager, Action Deaglon; (Apric from the list above) Signature:	Date: 6/24/200
ADDITIONAL COMMENTS OR REMARKS:	The document of the second
the criteria for for	the resier.
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
trivestigator Assigned	ID No
แก้งองเกิดเกเ ของเกิบอก	## 13V4

WHITE: SPECIAL INVESTIGATOR

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 51 of 156 PageID #: 5698

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration	u/10/9 ml				
Section IViolation Data						
1. Date Mo Da Yr 2. Time (24 Hr. Clock 06/08/2009 1237	d 3. Citation/ Order Number	8082831				
4. Served To	5. Operator	5. Operator				
Andy Coalson, Mine Foreman	PERFORMANCE COAL COMPANY	PERFORMANCE COAL COMPANY				
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)				
8. Condition or Practice		Ba. Written Notice (103g) 🔲				
The operator is failing to	o comply with an approved revision to	the mine				
ventilation plan. The longwaspecified by the revision. A	all set up is not being ventilated in A permanent ventilation control, requ					

The operator is failing to comply with an approved revision to the mine ventilation plan. The longwall set up is not being ventilated in the manner specified by the revision. A permanent ventilation control, required to be in place has been practically removed allowing air to short circuit to the return. A regulator required to be in place, to allow air to exit the longwall set up, is instead a solid stopping.

			See Co	ntinuation Form (MSF	IA Form 7000-3a)
9, Violation A. Health B. Section Safety Other Other		C. Part/Section of Title 30 CFR	75,37	(0(a)(1)	
Section II-Inspector's Evaluation					
10. Gravity: A. Injury or Illness (has) (is): No Likelihood] Unlikely 🔽	Reasonably Lik	ely Highly Likel	/ ☐ Occiu	tred 🔲
B. Injury or illness could rea- sonably be expected to be: No Lost Wor	kdays 🔲 🔝 Lost N	Workdays Or Restricte	d Duty [Permane	ntiy Disabiling 🔽	Fatal 🔲
C. Significant and Substantial: Yes	No 🔽		D. Number o	f Persons Affected:	007
11. Negligence (check one) A. None	B. Low	C. Moderate	D.High 🕢	E. Reckless Disreg	ard [
12. Type of Action 104(d)(2)	13. Type of Issu	ance (check one)	Citation ☐ Order ☑	Safeguard [Written Notice
14. Initial Action A. Citation B. Order C. Safeguard	D. Written Notice	E. Citation/ Order Numbe	, 8082692	F. Dated	Mo Da Yr 03/17/2009
necessary to correct the			o have any wo	ork, excer	ot that
16. Termination Due A. Date Mo Da Yr	B. Time (24 Hr. Cloc	ik)			
Section III-Termination Action					a a samular a
17. Action to Terminate The ventil	ation is no	w corrected			
U0/U8/ZUU9	ie (24 Hr. Clock)	1300			
Section IV-Automated System Data		1		· · · · · · · · · · · · · · · · · · ·	
19. Type of Inspection (activity code) E01 20. Event Numb	4119930	Ž 21. Prima	ut ou Will		·
22. Signature			23. AR	Number 24	308

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Netlone! Small Business and Agriculture Regulatory Cribudsman and 10 Regional Fairness Boards to receive comments from small business about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW. MC 2120, Washington, DC 20415. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, Including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

^{-/-} Case 5:14-g-00244 Document 311-4 Filed 08/18/15 Page 52 of 156 PageID #: 5699

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 46-08436 MSHA O	FFICE 2040/
MINENAME DAPEN BIG BIONCH - South	The state of the s
COMPANY NAME PENFORMEN Cool Co	was a second of the second of
Citation/Order No. 8090856	Date 6/17/09
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO D If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
1. Did the condition or practice cited create the presence of a high degree of risk	to the health and/or safety of miners? Yes No 🗌
a) Who was exposed to the hazard? (Name and Occupation)	5% 5
b) How were they exposed to the hazard? They were Exposed	
neutilation.	
c) When and over what period of time did the exposure occur? $6/7/59$	During the cut in the #3 entry
d) Is this first hand information? Yes \(\bigcirc \text{No} \) \(\bigcirc \text{Occupation} \)	
2. Did the operator or agent have actual knowledge, or reason to know, of the far a) Who had this knowledge? (Name and Title)	
b) How was this knowledge evidenced? He adm: Hed to know	
c) Is this first hand information? Yes No	
If not, who provided the information? (Name and Occupation)	
3. Any other perlinent information:	tana di kanang mangkanang mangkanang mangkanang mangkanang mangkanang mangkanang mangkanang mangkanang mangkan
· · · · · · · · · · · · · · · · · · ·	
1	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful	violation of the Act or mandatory health or safety standard? Yes No
Inspector AR Number: 24308 Signature: Will-	
Supervisor: Do you agree with the inspector's conclusion? Yes / No []	Jan
Signature: Markal Al Alicak	Date: (1/17/09)
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation.	on. 🔲
Assistant District Manager: Recompoundation: A (Apr C from the list at	ove)
Signature: Such Labor	Date: 6/39/09
Supervisory Special Tayestigator, Recommendation: A or C from the	list above)
Signature: () and S. Hackey	Date: 4/30/09
District Manager: Action Decision (A on from the list above)	
Signature: Livet I Harding	Date: 6/30/1009
ADDITIONAL COMMENTS OR REMARKS: This Westate	in close not meet the
criteria for a 11 pipiles	tistion Crecticed
expense Time - while me	indus in No.3.)
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 53 of 156 PageID #: 5700

Mine Citation/Order

U.S. Department of Labor Mine Safety and Health Administration

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4/	14	7	
			700

Section I-Violation Data			
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 06/17/2009 0111		3. Citation/ Order Number	, 8090856
4. Served To Steve Colo, section foreman	5. Operator PERFOR	r MANCE COAL COMPANY	Y
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID	46-08436	(Contractor)
8. Condition or Practice:			8a. Written Notice (103g)

The operator is failing to comply with the approved methane/dust control plan, section specific page items 4 and 7. The line curtain in the 4R crosscut is 4 rows of bolts or 15 back from the face. Also the 064 MMU continuous miner is loading in the #3 entry without any line curtain with the miner operator standing in visible dust on the return of the miner. Steve Colo, the section foreman stated to MSHA that he was aware of the conditions. Steve Colo engaged in aggravated conduct by failing to take action on a known hazard. This is unwarrantable failure to comply with a mandatory standard.

					•		
					See Continu	pation Form (MSF	IA Form 7000-3a)
9. Violation A. Health ☐ Safety ✓ Other ☐	B. Section of Act		C. Part/Section of Title 30 CFR		75.370(a)(1)	
Section II-Inspector's Evaluation					·		
 Gravity: A. Injury or Illness (has) (is) 	No Likelihood	Unlikely [Reasonably	Likely 🔲	Highly Likely	Z] Occu	rred 🔲
 B. Injury or illness could rea sonably be expected to b 		days	orkdays Or Restric	ted Duty 🔲	Permanently	Disabling 🔽	Fatal []
C. Significant and Substant	al: Yes 🗹	No 🔲			D. Number of P	ersons Affected	l: 003
11. Negligence (check one)	A. None	B. Low	C. Moderate 🗌	D. High	☑ E.R	eckless Disreg	ard 🔲
12. Type of Action 104(d)	(2)	13. Type of Issu	ance (check one)	Citation [Order 🗸 🕻	Safeguard 🗌	Written Notice
14. Initial Action A. Citation B. Order	C. Safeguard	D. Written Notice	E. Citation/ Order Nun	ber 8	082692	F. Dated	Mo Da Yr 03/17/2009
15. Area or Equipment #3		by the sec	cion cumpi	eng poin	. 	· · · · · · · · · · · · · · · · · · ·	
16. Termination Due A. Da	Mo Da Yr e	B. Time (24 Hr. Clo	ck)				•
Section IIITermination Action		\.					
17. Action to Terminate was held with t		ı is now co out ventila				safety m	eeting
Car warming I V Data	Da Yr 17/2009 B. Tim	e (24 Hr. Clock	0145				
Section IVAutomated System Data					. 7		
19. Type of inspection (activity code) E0	20. Event Number	4119930	5 21.Pri	mary or Mill			
22. Signature	j.				23. AR Nu	mber 24	308.

MSHA Form 7000-3, Apr 08 (revised)
In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC-2120; Washington, DC 20418. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 46-08436 MSHA OFFICE	20901
MINENAME COME BIG BOOKL - South	
	escenti de la compania de la compan La compania de la co
	C/15/199
Citation/Order No. 8070 853 D	ate
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO ☑ If yes: Fatal? ☐ Non-fatal? ☐
REVIEW CRITERIA: (Attach supplemental information if needed)	ا المسلم الأسلام المسلم الأسلام المسلم الأسلام المسلم المسلم المسلم المسلم المسلم المسلم المسلم المسلم المسلم
1. Did the condition or practice cited create the presence of a high degree of risk to the	health and/or safety of miners? Yes No
a) Who was exposed to the hazard? (Name and Occupation)	
CM. Mik Doskin S/C Shawn Ellison &	C Unayne Wrisdon
b) How were they exposed to the hazard? They were expected of	o duct due to improper ventionie
c) When and over what period of time did the exposure occur? _6-17-09	During the out in #3
d) Is this first hand information? Yes No \(\bigcirc\) If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or	conditions constituting the violation? Yes ☑ No ☐
a) Who had this knowledge? (Name and Title) Steve Colo, 120th	
b) How was this knowledge evidenced? He admi Ned that he I The HATUS peats - William Bane	ener the conditions existed
c) is this first hand information? Yes \(\begin{align*} \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violations produced and the second sec	and the second s
Supervisor: Do you agree with the inspector's conclusion? Yes No □	
Signature: Minutel A Rushi	Date: 0/17/09
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation.	
Assistant District Manager: Recommendation: (A or C from the list above)	
Signature: Show Laufe S	Date: 6/29/69
Supervisory Special Investigator: Recommendation) (A or C from the list al	pove)
Signature: Lavil 2. Hacks	Date: []30 0 G
District Manager Action Ofcision: C (Nor C front the list above) Signature: 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4	Date: 6/3/105
ADDITIONAL COMMENTS OF REMARKS: The Westers	does not meet
the criteria Per a pp ins	Pestistin Greefweel
Time of expadure - while mis	un () 1/0, 3 face.)
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned

	lion/O	

. 1	List. al
1.114	1014441
- પ્રામ	
l i	ICIWY

wine charion/order	Mine Safety and Health Administration
Section IViolation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 06/17/2009 0110	3. Citation/ Order Number 8090855
4. Served To	5. Operator
Steve Colo, section foreman	PERFORMANCE COAL COMPANY
6. Mine	7: Mine ID 46-08436
UPPER BIG BRANCH MINE-SOUTH	(Contractor)
8 Condition or Practice	8a. Written Notice (103g)
and the 064 MMU methane dust control place. The following conditions were found; present in the #5 entry. The line or bolts and 15' back from the face. 3) I split and air passing over the left min section. 4) The left side continuous min any line curtain and the miner man is streturn of the continuous miner. The settle condition of the face ventilation a Steve Colo engaged in aggravated conduct hazard. This is unwarrantable failure to 9. Violation A Health B. Section Safety Act 10 Act 11 C. P.	1) There is not a back up check intain in the 4R crosscut is 4 rows of the ventilation current is improperly for is going to the right side of the ner is loading in the #3 face without tanding in the visible dust in the action foreman stated he was aware of and failed to take action to correct it.
Other	N.C.
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or illness (has) (is): No Likelihood [] Unlikely []	Reasonably Likely Highly Likely V Occurred
A Initiation illness could rea.	ays Or Restricted Duty Permanently Disabling V Fatal
C. Significant and Substantial: Yes ✓ No ☐	D. Number of Persons Affected: 003
11. Negligence (check one) A. None D. B. Low D. C. Mc	derate D. High: V E. Reckless Disregard
12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order 🗹 Safeguard Written Notice 🗌
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15.Area or Equipment All equipment inby the se energized and no work other than that n to take place.	ction power center is to be de- ecessary to correct the ventilation is
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III-Termination Action	
17. Action to Terminate The section is now correc	tly ventilated and a safety meeting
was held with the crew about ventilatio	n and silicosis.
18. Terminated A. Date Mo Da Yr 06/17/2009 B. Time (24 Hr. Clock) 0	145
Section IVAutomated System Data	
19. Type of Inspection (activity code) E01 20. Event Number 4119936	21. Primary or Mill
22. Signature / / / /	23. AR Number 243.09

MSHA Form 7090-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120; Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including like right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 56 of 156 PageID #: 5703

Mine Citation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration	4/17/9/001	
Seotion I-Subsequent Action/Continuation Data 1. Subsequent Action 1a. Continuation	Da Yr 3. Cilation/ 6/17/2009 Order Number 8090855		
4. Served To Steve Colo, section foreman 6. Mine	5. Operator PERFORMANCE COAL COMPANY 7. Mine ID 4.6. 00 42.6. (Cont	ractor)	
UPPER BIG BRANCH MINE-SOUTH Section 11-Justification for Action	46-08436		
Continuation of 8. Condition or Practice with a mandatory standard.			

See Continuation Form Section III-Subsequent Action Taken 8. Extended To A. Date C Vacaled B. Time (24 Hr. Clock) D. Terminated E. Modified. Section IV-Inspection Data 9. Type of inspection E01 10. Event Number 4119936 11. Signature AR Number 12. Date Mo Da Yr 13. Time (24 Hr. Clock) 24308 06/17/2009

MSHA Form 7000-3a, Mar 85 (revised)

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 57 of 156 PageID #: 5704

Mine Cit Continue	ation/Order ation				epartment of La afety and Health		4/17/9MH
Section I-S	ubsequent Action/Continuation Data						
1. Subseq	tent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da 06/17/20	Yt 0 9	3. Citation/ Order Number	8090855 - 01	
4. Served	То			5. Opera	tor		
Steve Co	olo, section foreman			PERF	DRMANCE CO.	L COMPANY	
6. Mine UPPER	BIG BRANCH MINE-SO	JTH		7. Mine	46-08430	5	(Contractor)
Section IfJ	ustification for Action						***************************************
Change	Fro	m		artinistinininin T	To		
8, Conditio	on Or Practice				•		
Reason	Change the body of citation to a back up curtain in the # 064MMU to go to the right s in aggravated conduct by fail standard"	5 entry and the ve ide and the 065Ml	ntilation curr MU. Steve C	ent is in olo state	properly split allo d to MSHA that h	wing the air current was aware of the c	passing over the ondition. He engaged
15. Area.o	r-Equipment	-	,				
Reason	Change to read, "Inby the sec	tion loading point	ů.		•		
Separ	ate plans were ci	ted in one	order.			-	

See Continuation Form Section III-Subsequent Action Taken 8. Extended To B, Time (24 Hr. Clock) C. Vacated D. Terminated ✓ E. Modified Section IV-Inspection Data 9. Type of Inspection E01 10. Event Number 4119936 13. Time (24 Hr. Clock) AR Number 12. Date 11. Signature Mo Da Saw 06/17/2009 24308 0847

MSHA Form 7000-3a, Mar 85 (revised)

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 58 of 156 PageID #: 5705

infidential, Pre-decisional Information)		Department Safety and Hi	of Labor Paith Administra	tion 💮
FID 46-08436	<u> </u>	2040		
Linear Bie Branch M	A OFFICE		Reference (Control of Control of	
b. L	Lomphou			Tarana da la la composición de la composición d
19.5441 13/1414		A M A	9-2009	<u></u>
tion/Order No. 8086/27	Date	<u> </u>		
CIDENT INFORMATION: s this violation associated with an accident which caused an injury?	YES N	ю.	If yes: Fatal? ☐	Non-fatal?
IEW CRITERIA: (Attach supplemental information if needed)			٠.	
Who was exposed to the hazard? (Name and Occupation) Dead Danny Ferell, Minus open, William Griffs Dannell Scall, Roof Bolten open, Kenny How were they exposed to the hazard? J Jaz Marcum, They were ow the Section with large of When and over what period of time did the exposure occur? It y previous Shiff if they had Methum	amounts of a ppears the	Section	ic makingle was dirty	i high CH
Is this first hand information? Yes No \(\bigcirc\) No \(\bigcirc\) If not, who provided the information? (Name and Occupation)		· · · · · · · · · · · · · · · · · · ·		
Did the operator or agent have actual knowledge, or reason to know, of the Who had this knowledge? (Name and Title) アッルフラルとち、ミ	ection force	د ساور	my may	No Fire
How was this knowledge evidenced? The presence of Methons readings on my Spotter	excessive :	Combusti	bl- Maleiu	d & high
Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) Any other perlinent information: \(\textit{L} + \textit{Appender} \)	#4 6.4	ien hai	Net L	eers ad-
equally deemed & mining ha	4	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
	ono C.C	1 11 -		dard? Yes⊈No□ 01-08-09
supervisor: Do you agree with the inspector's conclusion? Yes W N Signature: Will Sauce	0 []		Date:	7/15/09
			* * * * * * * * * * * * * * * * * * * *	.#C 05€ 1 to
SSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further	******	\$ 1		**************************************
	******		Datë:	7(23/09
A. Conduct a special investigation. C. No further Assistant District Manager. Recommendation: A. (A or C from the I	******		Date:	7(53/09 7/54/04

WHITE: SPECIAL INVESTIGATOR

CASE ASSIGNMENT INFORMATION:

Investigation Case No.

Investigator Assigned

Date Assigned

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 59 of 156 PageID #: 5706

Mine Citation/Order

U.S. Department of Labor Mine Safety and Health Administration

Section (-: Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Glock) 07/09/2009 1030	3. Citation/ Order Number 8086127
4. Served To Gary Mays, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH	7: Mine ID 46-08436 (Contractor)
8 Condition or Practice	8a. Written Notice (103o)

The operator is failing to properly maintain the 029-040 MMU section. Loose coal has been allowed to accumulate in several locations of the section. The no.4 entry has coal measuring 1 inch to 24 inches deep for a distance of 112 feet on both ribs and the roadway. The 3 right cross-cut has coal accumulations measuring 1 inch to 24 inches deep on both ribs and the roadway for a distance of 79 feet in length. The no.3 entry, just outby the last open cross-cut has coal measuring 1 inch to 24 inches deep on both ribs and the roadway. The 2 left cross-cut has coal accumulations measuring 1 inch to 15 inches deep on both ribs and the roadway for a distance of 40 feet.

With the citation issued on 07/08/2009 citing over 2% methane in the same

		See Continuation Form (MSHA	Form 7000-3a) 🗸
9. Violation A. Health B. Section Safety Other of Act	C. Part/Section of Title 30 CFR	75,400	
Section II-Inspector's Evaluation		and the second s	
10, Gravity:	- 	3.2	
A. Injury or illness (has) (is): No Likelihood [Unlikel	7 🔲 Reasonably Likely 📋	Highly Likely 🔽 Occurr	ed []
B. Injury or illness could reasonably be expected to be: No Lost Workdays	Lost Workdays Or Restricted Duty	Permanently Disabling 🗹	Fatel 🗌
C. Significant and Substantial: Yes 🗹 No 🗌		D. Number of Persons Affected:	010
11. Negligence (check one) A. None B. Low	C. Moderate ☐ D. F	ligh 🔽 E. Reckless Disregar	d 🔲
12. Type of Action 104(d)(2) 13. Type	of Issuance (check one) Citation	□ Order ☑ Safeguard □	Written Notice 🗌
14, Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written No	E. Citation/ tice C Order Number	8082692 F. Dated	Mo Da Yr 03/17/2009
15. Area or Equipment No. 4, 3, 3-Right Cr 029/040 section.	oss-cut, and 2-le	Et cross-cut on the	MMU-
16. Termination Due A. Date Mo Da Yr B. Time (24 i	Ir, Clock)		
Section III-Termination Action			
17. Action to Terminate All the affected are	as have been clear	ned and dusted.	
18. Terminated A. Date Mo Da Yr 07/09/2009 B. Time (24 Hr. Clock	1315		
Section IV-Automated System Data			
19. Type of Inspection (activity code) E02 20. Event Number 412:	3477 21. Primary or M		. ,
22. Signature Okum. C. Clark		23. AR Number 245	16

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSHA, you may call 1-888-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW. MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information) Mine Safety and Health A		ation	
MINE ID 460-8436 MSHA OFFICE 0401			
MINENAME Upper Big Branch Mine - South			
COMPANYNAME Performance Coal Company	-	 	
Citation/Order No. 6612460 Date 7-10-09	<u> </u>	·	<u></u> -
Challon/Order No. U.S. Late	Šaukuu, useruur veri r e	समान्य समार प्राप्त की की सेन्द्री	e Territoria
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES□ NO☑ If yes: F	Fatal?	Non-fafal?	
REVIEW CRITERIA: (Attach supplemental information if needed)	_		•
1. Did the condition or practice cited create the presence of a high degree of risk to the health and/or safety of miners? Ye	s L	No -	14
a) Who was exposed to the hazard? (Name and Occupation)			
List attached to back.			
b) How were they exposed to the hazard? Working on section	:	488888	
c) When and over what period of time did the exposure occur? 2 0a45	 		
d) Is this first hand information? Yes [2] No [] If not, who provided the information? (Name and Occupation)			
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the violation?	Yes	No□	
a) Who had this knowledge? (Name and Title) Gary May	- 1-		·
b) How was this knowledge evidenced? Mr. May conducted the air of	<u>i Na</u>	nge	
c) Is this first hand information? Yes No I I NO I NO		* **	
5. Any other pertinent information:			
			
	. ">	t i de transa a gran con contra a decido de	
INSPECTOR'S CONCLUSION:	aktii utuu	Sarando (22 Emilio) en	- 1
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory health or Inspector AR Number: ウロイフ Signature () ロード・フルドファート			
21112	_ Date: 1	7-10-1	27
Supervisor: Do you agree with the inspector's conclusion? Yes ♥ No □ I	Date:	1-1-	
private the second seco	_ Date:	7/5/07	
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action.		· ·	
A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (Agr C from the list above)			
Signature:	Date:	7/3360	
Supervisory Special Investigator, Recommendation (A or C from the list above)		11000	<u> </u>
Signature:	Date:	7/24/0	9
District Manager Action Decision (A of a from the list above) Signature: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	Date:	hypon	2
ADDITIONAL COMMENTS OR REMARKS: The Delate deer Me	7-	mest	
the entering los a 110 investration	62		
The second of th			***
CASE ASSIGNMENT INFORMATION:			
Investigation Case No Date Assign	ied		
and a control of the		a see a	

Investigator Assigned

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 61 of 156 PageID #: 5708

Miné Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 1055	3: Citation/ Order Number 6612460
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY
GART MAT (WINE FOREWAN)	
UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition of Practice	8a. Written Notice (103g)
THE OPERATOR HAD MADE AN AIR CHANGE ON APPROVED REVISION FROM THE DISTRICT MAN AIR HAD BEEN REVERSED IN THE #1 ENTRY E	
	· · · · · · · · · · · · · · · · · · ·
	Particular transfer with the Particular
9. Violation A. Health B. Section C. P.	See Continuation Form (MSHA Form 7000-3a)
	ue 30 CFR 75,370(a)(1)
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☑	Reasonably Likely Highly Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workday	ys Or Restricted Duty 🗸 Permanently Disabling 🔲 Fatal 🗌
C. Significant and Substantial: Yes ☐ No ☑	D. Number of Persons Affected: 010
11. Negligence (check one) A None B. Low C. Mo	derate D. High 🗸 E. Reckless Disregard 🗌
12. Type of Action 104(d)(2) 13. Type of Issuance	check one) Citation 🗌 Order 🗹 Safeguard 🔲 Written Notice 🗌
14. Initial Action A. Citation ☐ B. Order ✔ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15. Area or Equipment FROM #95 CROSS CUT IN THE	
SECTION TAIL PIECE TO THE FACES OF THE SECTION.	
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III—Termination Action	
17 Action to Terminate THE OPERATOR MADE A VENTIL USING SPLIT VENTILATION.	ATION CHANGE AND NOW THE #1 SECTION IS
18. Terminated A. Date MoDa Yr B. Time (24 Hr. Clock) 16	530
Section IV-Automated System Data	
19. Type of Inspection (activity code) E01 20, Event Number 4119293	21. Primary or Mill
22. Signature Over 5 alfer	23 AR Number 24172
	each agency's responsiveness to small business. If you wish to comment on the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd a comment with the Ombudsman is in addition to any other rights you may have including

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 62 of 156 PageID #. 5709

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 460-8436 MISHA OFFICE	0401
	=- South
	ompand
	ate 7 -2 1 = 09
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO⊿ if yes: Fatal? ☐ Non-fatal? ☐
REVIEW CRITERIA: (Attach supplemental information if needed)	نجب مبد الله
1. Did the condition or practice cited create the presence of a high degree of risk to the	health and/or safety of miners? Yes \(\square\) No \(\frac{1}{2} \)
	odney osborne Joshsmith
b) How were they exposed to the hazard? Running equip m	ent in the belt entry
c) When and over what period of time did the exposure occur? 5 hours	today
d) is this first hand information? Yes No	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or a) Who had this knowledge? (Name and Title) Mile Bailey	conditions constituting the violation? Yes☑ No□ CF(r∈ Boss)
b) How was this knowledge evidenced? Mr. Bailey die	No extento escribismos al social securitorial for the constant contract of the
c) Is this first hand information? Yes No	en de la companya de La companya de la co
INSPECTOR'S CONCLUSION:	
Based on this review, does this appear to be a possible knowing and/or willful violation	ion of the Act or mandatory health or safety standard? Yes⊟ No 🗹
Inspector AR Number: 24117 2 Signature: O over	& athey Date: 17-21-09
Supervisor: Do you agree with the inspector's conclusion? Yes No Signature:	Date: 7/24/09
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation.	
Assistant District Manager: Recommendation: (A or C from the list above) Signature:	Date: 7/21/69
Supervisory Special Investigator: Recommendation: (A or C from the list all Signature:	Date: 7/29/09
District Manager: Action Decision 5 (Abric from the list above) Signature:	Date: 7/29/2009
ADDITIONAL COMMENTS OR REMARKS: The Delates	does not meet
the criteric for a 110	indestreation,
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned

WHITE: SPECIAL INVESTIGATOR

Investigator Assigned

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 63 of 156 PageID #: 5710

U.S. Department of Labor Mine Safety and Health Administration

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Section I-Violation Data	· · · · · · · · · · · · · · · · · · ·	·							
	Da Yr 1/2009	2. Time (24	Hr. Clock) 1145		THE SECTION OF THE SE	s.	3. Citation. Order N	umber 8094.	526
4. Served To			3		5. Operator			A	·
ANDY COALSO	MM) MC	IE FOREM	AN)			AANCE CO	JAL COM	'ANY	
6. Mine	43.YZYZYZ 38.	ome doug	ni i		7. Mine ID	46-0843	36		Cartrantan
UPPER BIG BR 8. Condition or Pract		IINE-SOUT	H	- 21	,			Ra Welte	(Contractor) n Notice (103g)
THE PRE-SH		ΤΨΔΜΤΜΔ	ON FOR #3 I	अस्तरण ।	OR #1 S	ECTION	DAYSHT	All the second s	2009 WAS
INADEQUATE	IN TH	AT APPR		31 BO	TOM ROI	LERS W	ERE BROI		ING ON THE
			•					•	
•									
•			•						
•		•				·		,	
			*						•
						¥	See Cor	ilinuation Form (MSI	IA Form 7000-3a)
	alth ifety	B. Section of Act	 		art/Section of itle 30 CFR		75,36	0(a)(1)	
Section II-Inspector's E	-1.3 = 1 January	1	\$20 at 10 at	!					A
10. Gravity:				riteret mitte Heren		utani umu Na kalendari	57848 No. 67 188 No. 11		
A. Injury or Illness			d 🗍 Unlikely		Reasonably L	ikely 🗸	Highly Likely	Occu	rred 🗌
B. Injury or illness sonably be exp	could rea- ected to be	No Lost	Workdays ☐ L	ost Workd	ays Or Restric	ted Duty 🔲	.ji	tly Disabling 🔽	Fatal 🗍
C. Significant and	Substantia	il: Yes [✓ No 🗌				D. Number o	f Persons Affected	^{i:} 004
11. Negligence (che	ck one)	A. None	B. Low 🔲	C. M	oderate 🗌	D. High	₽ E	Reckless Disreg	ard []
12. Type of Action	104(d)(2)	13. Туре о	f Issuance	(check one)	Citation [Order 🗸	Safeguard [Written Notice
14. Initial Action A. Citation B	. Order 🕢	C. Safeguard	I D. Written Noti	ce 🔲	E. Citation/ Order Num	ber 8	082692	F. Dated	Mo Da Yr 03/17/2009
15. Area or Equipme	nt THE	#3 SEC	TION BELT I	OR #1	SECTIO	N.		e e e e e e e e e e e e e e e e e e e	· · · · · · · · · · · · · · · · · · ·
				,, -		~ ·			•
e de la companya de l	•								Marie Land
16. Termination Due	A. Date	Mo Da Yr	B. Time (24 H	. Clock)		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	8,0		
Section III-Termination	Action		<u> </u>				.,		
17. Action to Termin	ata			3, 1120	<u> </u>			10 % 11 11 11 11 11 11 11 11 11 11 11 11 1	
	ate .								
18. Terminated A. C	Date Mo	Da Yr B	. Time (24 Hr. Clock)						· · · · · · · · · · · · · · · · · · ·
Section IV-Automated	System Data			a de la calega				The Baltima State of the Control of	
19. Type of Inspection (activity code)	en E01	20. Event N	umber 4119	293	21, Prir	nary or Mill		· · · · · · · · · · · · · · · · · · ·	
22. Signature	انع	1	Other				23. AR	Number 2 ⁴	1172
MSHA Form 7000-3. Ac) In accordan	ce with the provisions of	the Small B	isiness Regulato	ry Enforcement	Fairness Act of 1	998, the Small Busin	ess Administration has

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2/20, Washington, DC 20418. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 64 of 156 PageID #: 5711 Mine Citation/Order U.S. Department of Labor Continuation Mine Safety and Health Administration Section I-Subsequent Action/Continuation Data 3. Citation/ Order Number 8094526 - 01 1. Subsequent Action 1a. Continuation 2. Dated Mo Da (Original issue) 07/21/2009 4. Served To 5. Operator Andy Coalson, Mine Foreman PERFORMANCE COAL COMPANY 6. Mine 7. Mine ID (Contractor) 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II—Justification for Action The operator has re-instructed the examiners on proper examinations. See Continuation Form

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 65 of 156 PageID #: 5712

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 460 8436 MSHA OFFICE 040	
MINENAME Upper Big Branch Mine-South	
COMPANYNAME Performance Coal Company	100 - 140 - 100 100 - 10
Citation/Order No. 8094527 Date 7-2	1-09
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO	If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
1. Did the condition or practice cited create the presence of a high degree of risk to the health and/or safe	
a) Who was exposed to the hazard? (Name and Occupation) Bruce Brackett Toe Massey Rodney Osbo motor May motor May Motor May	
b) How were they exposed to the hazard? Running equipment in the	e belt entry
c) When and over what period of time did the exposure occur? 5 hours today	
d) Is this first hand Information? Yes No No No No No No No No Provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituted with this knowledge? (Name and Title) And Coc. 500 (Mins	
b) How was this knowledge evidenced? Mr. Coalson counter hooks since 7-11-09	signed the beit
c) Is this first hand information? Yes No Ulfriot, who provided the information? (Name and Occupation)	
3. Any other pertinent information:	<u></u>
INSPECTOR'S CONCLUSION:	
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or n	nandatory health or safety standard? Yes⊡ No 🗇
Inspector AR Number: 24172 Signature Quey 2 Out	Date: 17-21-09
Supervisor: Do you agree with the inspector's conclusion? Yes \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	Date: 7/24/09
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation. C: No further action.	
Assistant District Manager: Recommendation: (A or C from the list above)	Date: 7/14/9 9
Signature: Aut August (Apr C from the list above)	
Supervisory Special Investigator, Recommendation (Apr C from the list above) Signature:	Date: 1/59/09
District Manager: Action Decision: C (A or C from the list above) Signature:	Date: 7/15/1005
ADDITIONAL COMMENTS OF REMARKS: This distation	does not
meet the outering for a	110 untestibles
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	LD No.

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 66 of 156 PageID #: 5713 Mine Citation/Order U.S. Department of Labor Mine Safety and Health Administration Section I-Violation Data 1. Date 2. Time (24 Hr. Clock) 3. Citation/ Mô Da Yr 8094527 Order Number 07/21/2009 4. Served To 5. Operator PERFORMANCE COAL COMPANY ANDY COALSON (MINE FOREMAN) 6. Mine 7. Mine ID 46-08436 (Contractor) UPPER BIG BRANCH MINE-SOUTH 8a. Written Notice (103g) 8. Condition or Practice ACCUMULATION OF LOOSE COAL WAS PRESENT AT THE #2 TAILPIECE (2 BELT) FOR #1 SECTION FROM THE BACK OF THE TAILPIECE OUTBY FOR TWO CROSS CUTS. THIS MATERIAL WAS APPROXIMATELY 6 TO 15 INCHES DEEP IN THIS AREA. ALSO FROM CROSS CUT #60 OUTBY TO THE #2 HEAD INCLUDING UNDER THE DRIVE MOTORS LOOSE COAL WAS PRESENT. THIS MATERIAL WAS APPROXIMATELY 2 TO 8 INCHES IN DEPTH ALONG THIS BELT FROM THE TRACK RAIL TO THE OFFSIDE RIB OF THE BELT. See Continuation Form (MSHA Form 7000-3a) 9. Violation B. Section C. Part/Section of A. Health Safety of Act Title 30 CFR 75,400 Other _ Section II-Inspector's Evaluation 10. Gravity: No Likelihood | Unlikely V Reasonably Likely A. Injury or Illness (has) (is): Highly Likely Occurred | B. Injury or illness could rea-No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling V Fatal sonably be expected to be: C. Significant and Substantial: D. Number of Persons Affected: 004 Yes 🗌 No V 11. Negligence (check one) A. None B. Low C. Moderate D, High 🗸 E. Reckless Disregard 13. Type of Issuance (check one) Type of Action 104(d)(2) Citation | Order 🗸 Safeguard [Written Notice E. Citation/ F. Dated Mo Da Yr 14. Initial Action 8082692 Order Number A. Citation B. Order C. C. Safeguard D. Written Notice 03/17/2009 15. Area or Equipment THE #2 BELT CONVEYOR FOR #1 SECTION. 16. Termination Due Mo Da Υr A. Date B. Time (24 Hr. Clock) Section III-Termination Action 17. Action to Terminate MoDa Yr 18. Terminated A. Date B. Time (24 Hr. Clock) Section IV-Automated System Data 20. Event Number 21. Primary or Mill 19. Type of Inspection 4119293 E01 (activity code)

MSHA Form 7000-3, Apr 08 (revised)
In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annualty evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20418. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

22. Signature

23. AR Number

24172

; Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 67 of 156 PageID #: 5714 Mine Citation/Order U.S. Department of Labor Continuation Mine Safety and Health Administration Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation 3. Citation/ Order Number 8094527 ~ 01 2. Dated Мо Dа (Original Issue) \mathbf{Z} 07/21/2009 4. Served To 5. Operator PERFORMANCE COAL COMPANY Andy Coalson, Mine Foreman 6. Mine 7, Mine ID (Contractor) 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II-Justification for Action

The belt has been cleaned.

MSHA Form 7000-3a, Mar 85 (revised)

			See Continuation Form
Section III-Subsequent Action Taken 8. Extended To Mo Da	Y		20 Marie 1997
A, Date	B. Time (24 Hr. Clock)	☐ C. Vacated ☑ D. Term	inated LE Modified
Section IV-Inspection Data			
3. Type of Inspection E02	10. Event Number 4123479		
11. Signature C.C.	Cur AR Number 12. Da 24516	ite Mo Da Yr 13. Time (2 07/22/2009	4 Hr. Glock) 1544

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 68 of 156 PageID #: 5715

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 460 8436 MSHA OFFICE 0401	
MINENAME Upper Big Branch Mine-South	
COMPANYNAME Performance Coal Company	
Control of the contro	09
ORGINO DOLLO TIO	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO	If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
1. Did the condition or practice cited create the presence of a high degree of risk to the health and/or safety of m	iners? Yes No.
a) Who was exposed to the hazard? (Name and Occupation) y Rodney Osborne motor man motor man motor man	Josh Smith motor man
b) How were they exposed to the hazard? Running equipment in the	2 belt entry
c) When and over what period of time did the exposure occur? 5 hours today	
d) Is this first fiand information? Yes No Secupation No S	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the a) Who had this knowledge? (Name and Title) And U COSISON MINE FOR	eman)
b) How was this knowledge evidenced? Mr. Coalson countersigned books since 7-11-09	ed the belt
c) Is this first hand information? Yes No No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato	ory health or safety standard? Yes⊟ No⊟
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato inspector AR Number: 24177 Signature: Dey E Other	ny health or safety standard? Yes⊟ No⊟ Date: ୮7 −2 1 −⊘S
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato	
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato inspector AR Number: 2 4 1 7 2 Signature: 0 18 9 9 9 00 00 00 00 00 00 00 00 00 00 00	Date: 17-21-09
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato inspector AR Number: 2 4 1 7 2 Signature: 0 18 4 5 CTT 19 Supervisor. Do you agree with the inspector's conclusion? Yes 10 No 10 Signature: 10 ACTIONS: A Conduct a special investigation. 11 C: No further action. 12	Date: 17-21-09
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato inspector AR Number: 2 4 1 7 2 Signature: 0 18 9 9 9 00 00 00 00 00 00 00 00 00 00 00	Date: 17-21-09
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato Inspector AR Number: 2 1 17 Signature: 10 10 1	Date: 7/24/09 Date: 7/24/09
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato Inspector AR Number: 2 4 17 Signature: 8 O Signature: 8 No 8 Signature: 9 No 9 N	Date: 7/24/09
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato Inspector AR Number: 2 1 17 Signature: 10 10 1	Date: 7/24/09 Date: 7/24/09
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato Inspector AR Number: 2 4 17 Signature: 8 Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: 8 No Signature: 8 O No Further action. 9 C No further action. 9 Assistant District Manager: Recommendation: (A or C from the list above) Signature: 8 Supervisory Special Investigation: Recommendation: (A or C from the list above) Signature: 9 Signature: (A or C from the list above)	Date: 7/24/09 Date: 7/24/09 Date:
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato Inspector AR Number: 2 1 17 Signature: 10 10 10 10 10 10 10 10 10 10 10 10 10	Date: 7/24/09 Date: 7/24/09 Date:
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato inspector AR Number: 2 L 1 T Signature: Be L S OTHER Supervisor: Do you agree with the inspector's conclusion? Yes D No D Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation: C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature: Supervisory Special Investigator: Recommendation: (A or C from the list above) Signature: District Manager: Action Decision: (A or C from the list above) Signature: ADDITIONAL COMMENTS OR REMARKS: ADDITIONAL COMMENTS OR REMARKS: ALL LIST LIST LIST LIST LIST LIST LIST LI	Date: 7/24/09 Date: 7/24/09 Date:
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato inspector AR Number: 2 1 1 2 Signature: 1 2 C C C C C C C C C	Date: 7/24/09 Date: 7/24/09 Date:
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandato inspector AR Number: 2 L 17 Signature: Re	Date: 7/24/09 Date: 7/24/09 Date:

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 69 of 156 PageID #: 5716 «Mine Citation/Order) U.S. Department of Labor Mine Safety and Health Administration Section I-Violation Data 2. Time (24 Hr. Clock) 3. Citation/ 1. Date Mo Da Yr 8094525 Order Number 07/21/2009 1130 5. Operator 4. Served To PERFORMANCE COAL COMPANY ANDY COALSON (MINE FOREMAN) 7. Mine ID 6. Mine 46-08436 UPPER BIG BRANCH MINE-SOUTH (Contractor) 8a. Written Notice (103g) 8. Condition or Practice ACCUMULATIONS OF LOOSE COAL WAS PRESENT ALONG THE #3 SECTION FOR #1 SECTION CROSS CUT #128 OUTBY TO THE #3 BELT HEAD. THIS MATERIAL WAS APPROXIMATELY 3 TO 18 INCHES DEEP FROM THE TRACK RAIL TO THE OFFSIDE RIB ON THIS BELT. THE PRE-SHIFT RECORD FOR THIS BELT LIST NEEDS SPOT CLEANED AND DUSTED SINCE 7/11/2009 See Continuation Form (MSHA Form 7000-3a) C. Part/Section of 9. Violation A. Health B. Section Title 30 CFR 75,400 Safety 🗸 of Act Other Section II-Inspector's Evaluation 10. Gravity: Unlikely [Reasonably Likely V Highly Likely [A. Injury or Illness (has) (is): No Likelihood Occurred B. Injury or iliness could rea-No Lost Workdays [Lost Workdays Or Restricted Duty Permanently Disabling V Fatal 🗍 sonably be expected to be C. Significant and Substantial: D. Number of Persons Affected: 004 Yes 🗸 No 🗌 11. Negligence (check one) A. None B. Low C. Moderate D. High 🗸 E. Reckless Disregard Citation [12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Order 🗸 Safeguard Written Notice E. Citation/ F. Dated Mo Da Yr 14. Initial Action 8082692 Order Number B. Order C. C. Safeguard D. Written Notice A. Citation 🗔 03/17/2009 15. Area or Equipment THE #3 BELT CONVEYOR FOR THE #1 SECTION. 16. Termination Due Mo Da Yr A. Date B. Time (24 Hr. Clock) Section III-Termination Action 17. Action to Terminate 18. Terminated Mo Da A. Date B. Time (24 Hr. Clock) Section IV-Automated System Data 21. Primary or Mill 19. Type of Inspection 20. Event Number 4119293 E01 (activity code)

MSHA Form 7000-3, April 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-784-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW. MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest clations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

22. Signature

23, AR Number

24172

Mine Citation/Order U.S. Department of Labor Continuation Mine Safety and Health Administration Section I-Subsequent Action/Continuation Data 3. Citation/ Order Number 8094525 - 01 1. Subsequent Action 1a. Continuation 2. Dated Мо Da Ϋ́r (Original Issue) V 07/21/2009 4. Served To 5. Operator PERFORMANCE COAL COMPANY Andy Coalson, Mine Foreman 7. Mine ID (Contractor) 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II-Justification for Action

The belt has been cleaned.

eş.					Same of the same o	See Continuation Form
Section III-Subsequent Action 1	aken					
8. Extended To A. Date	lo Da	Yr B. Time (24 Hr. C	Clock)	☐ C. Vacated	✓ D. Terminated	☐ E. Modified
Section IV-Inspection Data						
9. Type of Inspection E02	2 1	io. Event Number	4123479			
11. Signature	2 Cl	1 AR N Cal 245	Number 12. Date	Mo Da Yr 07/22/2009	13, Time (24 Hr. Cl 1542	ock)

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POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 460 8436 MSHA OFFICE	0401
MINENAME DODER Big Branch Mine	- 500th
	10911 <i>4</i>
Citation/Order No. 8094532 Date	/n-1 m -de
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO 🔀
REVIEW CRITERIA: (Altach supplemental information if needed)	•
 Did the condition or practice cited create the presence of a high degree of risk to the he Who was exposed to the hazard? (Name and Occupation) 	alth and/or safety of miners? Yes 🗍 No 🖾
b) How were they exposed to the hazard? The operator f Miners of the revision c) When and over what period of time did the exposure occur? Since the Dillaring on 7-21-09 d) Is this first hand information? Yes No If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or con a) Who had this knowledge? (Name and Title) Rick Foster Cr b) How was this knowledge evidenced? Mr Foster should Constitute the first hand information? Yes No□	Mine Foremen)
If not, who provided the information? (Name and Occupation)	<u> </u>
3. Any other perlinent information: The operator had to a qetthis plan brought to t	ocall engineering +0 he mine
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation	
Inspector AR Number: 24172 Signature: C) our 9	Other Date: 7-27-00
Supervisor: Do you agree with the inspector's conclusion? Yes No D	Date: 7/28/08
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation: C. No further action. Assistant District Manager; Recommendation: (A or C from the list above)	
Signature: X J Z Day SX	Date: 7/30/09
Supervisory Special Investigator: Decommendation: C. (A'or Crom the list above Signature:	Date: 7/51/63
District Manager: Action Decision: C (A or 9 from the list above) Signature: (Line H. H. A.	Date: 7/3//2009
ADDITIONAL COMMENTS OR REMARKS: / MAN DECLATE	on places mot

MSHA Form 7000-20, June 97 (revised)

CASE ASSIGNMENT INFORMATION:

Investigation Case No.
Investigator Assigned

WHITE: SPECIAL INVESTIGATOR

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	10919
Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 07/27/2009 0920	3. Citation/ Order Number 8094532
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY
6. Mine	7. Mine ID 46-08436
UPPER BIG BRANCH MINE-SOUTH 8. Condition or Practice	(Contractor) 8a. Written Notice (103g)
THE APPROVED SUPPLEMENT TO THE ROOF CON IMPLEMENTED AT THIS MINE AND MINERS WEN THE #3 SECTION THAT IS PILLARING.	NTROL PLAN DATED 11/14/2008 WAS
and the second s	
	See Continuation Form (MSHA Form 7000-3a)
	Part/Section of itle 30 CFR 75.220(d)
Section II-Inspector's Evaluation	
10. Gravity:	
A. Injury or Illness (has) (is): No Likelihood Unlikely B. Injury or Illness could rea-	Reasonably Likely Highly Likely Occurred
Solidary de expedieur to de.	ays Or Restricted Duty Permanently Disabling Fatal D. Number of Persons Affected: 000
163	D. Number of Persons Affected: 009 oderate D. High E. Reckless Disregard
12. Type of Action 104(d)(2) 13. Type of Issuance	
	E. Citation/ 8082692 F. Dated Mo Da Yr
	Order Number 03/17/2009
15. Area or Equipment THE #3 SECTION.	
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III-Termination Action	
17. Action to Terminate THE REVISION HAS BEEN COVE	RED WITH THE MINERS ON #3 SECTION.
18. Terminated A. Date MoDa Yr B. Time (24 Hr. Clock) 1	200
Section IV-Automated System Data	
19. Type of Inspection (activity code) E01 20. Event Number 4119293	21, Primary or Mill
22. Signature () 18 P. A. S. Cillian	23. AR Number 24172

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have. Including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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POSSIBLE KNOWING/WILLFUL VIQLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 4608436 MSHA OFFICE	0401
MINENAME Upper Big Branch Mine -	500th
COMPANYNAME PERFORM GACE COG! COM	
Citation/Order No. 8094531 Da	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO 🖎 II yes: Falai? 🗌 Non-fatai? 🔲
REVIEW CRITERIA: (Attach supplemental information if needed)	
Did the condition or practice cited create the presence of a high degree of risk to the la). Who was exposed to the hazard? (Name and Occupation).	health and/or safety of miners? Yes 🗌 No 🔀
b) How were they exposed to the hazard? Not installing	
c) When and over what period of time did the exposure occup? 5 ince +1 Pillaring on 7/21/69 d) Is this first hand information? Yes 8 No 1	he operator started
If not, who provided the information? (Name and Occupation)	
The contract of the contract o	ling Foreman)
b) How was this knowledge evidenced? Mr. Foster should be sections	Ild know all plans for
c) is this first hand information? Yes ⊠ No ☐ If not, who provided the information? (Name and Occupation)	and the second
3. Any other perlinent information: The operator had t	o callengineering to
get this plan brought to the	mine
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violati	ion of the Act or mandalory health or safety standard? Yes No. X
Inspector AR Number: 24/17 9 Signature: Comercy	
Supervisor. Do you agree with the inspector's ponclusion? Yes No	
Signature: Middle A. A. William	Date: 7/28/9
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation, C. No further action,]···
A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above)	in the second
A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature:	Date: 7/30/69
A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above)	Date: 7/30/69
A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature: Supervisory Special Investigator: Recommendation: (A or C from the list above)	Date: 7/30/69

CASE ASSIGNMENT INFORMATION:

Investigation Case No. _____ Date Assigned ______ Investigator Assigned ______ ID No. _____

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		, Amell
Aine Citation/Order	U.S. Department of L Mine Safety and Health	
Section I-Violation Data		
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 07/27/2009 09.15	. 2004/17/2004	3. Citation/ Order Number 8094531
4. Served To	5. Operator PERFORMANCE CO	AT COUNTRY AND
RICK FOSTER (MINE FOREMAN) 6. Mine		
UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-0843	6 (Contractor)
B. Condition or Practice		8a, Written Notice (103g)
5th Supplement) for the #3 section that #33 states that five 8ft. cable bolts i	r's Pillaring. VILL BE INSTALL OCK BEING MINE	The state of the s
	•	3 P
		Carlos and a company of the contract of the co
P. Violetion A. Health B. Section C. F	art/Section of	See Continuation Form (MSHA Form 7000-3a)
Safety of Act	tle 30 CFR	75.220(a)
Other _	<u> </u>	
Section II-Inspector's Evaluation O. Gravity: A. Injury or Illness (has) (is): No Likelinood Unlikely ✓	Reasonably Likely	Highly Likely Accurred Accurred
B. Injury or illness could rea-	ays Or Restricted Duty	Permanently Disabling Fatal
sonably be expected to be: No Lost Workdays Lost Workd C. Significant and Substantial: Yes No V		D. Number of Persons Affected: 009
1. Negligence (check one) A. None B. Low C. Mc	derate D. High	E. Reckless Disregard
2. Type of Action 104(d)(2) 13. Type of issuance	(check one) Citation	Order 🗸 Safeguard 🗌 Written Notice 🗍
4. Initial Action A. Citation ☐ B. Order ✔ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ Order Number 80	82692 F. Dated Mo Da Yr 03/17/2009
5. Area or Equipment THE #3 SECTION.		331112007
THE WOODSTAN		
67-1-W-B-1		
6. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)		
ection III-Termination Action		
7. Action to Terminate THE OPERATOR HAS INSTALLED NTERSECTION WHERE SPAD #23466 (#7 ENTE		CABLE BOLTS IN THE
8. Terminated A. Date MoDa Yr B. Time (24 Hr. Clock) 1	245	
ection IV-Automated System Data		
9 Type of Inspection (activity code) E01 20. Event Number 4119293	21. Primary or Mill	
2. Signature au Lathey		23. AR Number 24172
SHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Bu	siness Regulatory Enforcement Fa	irness Act of 1996, the Small Business Administration has

MSHA Form 7000-\$, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small business about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note; however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
State of the state	
MINE ID 46-08436 MSHA OFFICE	
MINENAME uppor Big Branch Mine - Sont	
COMPANY NAME Performance Good Company	
Citation/Order No. 80849.65 D	nie 7-29-89
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO L If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	73: Files File
 Did the condition or practice cited create the presence of a high degree of risk to the a) Who was exposed to the hazard? (Name and Occupation) 	health and/or safety of miners? Yes 🛂 No 🗌
00	LES RBO! Ed Mourau 500.
b) How were they exposed to the hazard? Working in Return	contine bother che dutting
c) When and over what period of time did the exposure occur?	1-09 and for 4 hrs.
	an a
d) is this first hand information? Yes [No	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or	conditions constituting the violation? Yes No No
a) Who had this knowledge? (Name and Title)	
b) How was this knowledge evidenced? Jack Martin Fee-S	higher and was section forman.
c) Is this first hand information? Yes No \(\bigcap \) No \(\bigcap \) If not, who provided the information? (Name and Occupation) \(\bigcap \) 3. Any other pertinent information: \(\bigcap \big	in LOB and 2 apar treates
on 7-22-09 and was attituden	- alsa
INSPECTOR'S CONCLUSION:	, y
Based on this review, does this appear to be a possible knowing and/or willful violat	3.4
Inspector AR Number: 14553 Signature:	Date: 8-3-05
Supervisor: Do you agree with the inspector sconclusion? Yes No Signature:	Date: S/3/19
POSSIBLE RECOMMENDED ACTIONS:	- 21 yez
A. Conduct a special investigation.	
Assistant District Manager_Recommendation: A (A or C from the list above)	
Signature: Such L Delb S	Date: 8/3/09
Supervisory Special investigator—Recommendation: (A or C from the list at	ove)
Signature: Land Hypother	Date: 8/4/59
District Manager Action Decision: A or C from the list above) Signature:	Date: 8/4/Ders
ADDITIONAL COMMENTS OF REMARKS.	A Many Al.
and high digner of risk	Met substantiale
- U U V	· ·
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	ID No

Case 5:14-cr-00244 Document 311-4 Filed 08/18/15 Page 76 of 156 PageID #: 5723

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data ?:	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 07/29/2009 1130	3. Citation/ Order Number 8084965
4. Served To	5. Operator
Gary May, mine foreman	PERFORMANCE COAL COMPANY
6. Mine	7. Mine ID 46-08436
UPPER BIG BRANCH MINE-SOUTH	(Gontractol
8: Condition or Practice	8a, Written Notice (103g)
The operator had 4 open cross cuts section. Two of these stopping's were return for water drainage.	on the return side in the number 1 taken out to grade bottom in the right
·	
*	
2	
	v.
334500 - 12 period 18 0000	See Continuation Form (MSHA Form 7000-Sa)
9. Violation A. Health ☐ B. Section C Salety ☑ of Act Other	Part/Section of Title 30 CFR 75,333(b)(1)
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or Illness (has) (is): No Likelihood [Unlikely [Reasonably Likely Highly Likely Occurred
P Inline of Illness could rest	kdays Or Restricted Duty Permanently Disabling 🗹 🛘 Fatal 🗍
C. Significant and Substantial: Yes 🔽 No 🗌	D. Number of Persons Affected: 003
11. Negligence (check one) A. None B. Low C. I	Moderate ☐ D. High ☑ E. Reckless Disregard ☐
12. Type of Action 104(d)(2) 13. Type of Issuand	ce (check one) Citation 🗌 Order 🗹 Safeguerd 🔲 Written Notice 🗀
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15. Area or Equipment Number I section.	
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III-Termination Action	
17. Action to Terminate Two stoppings were built.	
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock	1500
Section IV-Automated System Data	
19. Type of Inspection (activity code) E02 20. Event Number 6284319	21. Primary or Mill
22. Signature day Aselnet	23, AR Number 24558
MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small established a National Small Business and Agriculture Regulatory Ombudsman and 10 R enforcement actions. The Ombudsman annually evaluates enforcement activities and rel	Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has legional Fairness Boards to receive comments from small businesses about federal agency les each agency's responsiveness to small business. If you wish to comment on the

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-988-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20418. Please note, however, that your right to tile a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

#80000 VHSAS d 3:14-cr 00244 Document 311-4 Filed 08/18/15 Page 77 of 156 PageID #: 5724

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 46-08436 MSHA OFFICE MT Hape	
6 0 2 5 8 60 0	
	· · · · · · · · · · · · · · · · · · ·
COMPANY NAME Parformance Cool Company	
Citation/Order No. 8084967 Date 7-19-6	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO	(fyes: Fatal? Non-tatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
 Did the condition of practice cited create the presence of a high degree of risk to the health and/or safety of n Who was exposed to the hazard? (Name and Occupation) 	niners? Yes No P
Danny Ferrell (MO; Daniel Doves, RBO; Ed b) How were they exposed to the hazard? Working in Return	Mooney, Sco.
c) When and over what period of time did the exposure occur?	
d) Is this first hand information? Yes [No [] No [] If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the all Who had this knowledge? (Name and Title)	e violation? Yes ☐ No ☐
b) How was this knowledge evidenced? Pre-Shift + Fine Bossing was R	reformed by backmost
c) Is this first hand information? Yes No	r
3. Any other pertinent information:	ut E02 checkon
7-12-09	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandate.	ory health or safety standard? Yes디 No급~
Inspector AR Number 24558 Signature: Ham Hedrick	Date: 8.3.09
Supervisor: Do you agree with the inspector's conclusion? Yes [] No [] Signature:	Date: 8/3/09
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action.	
Assistant District Manager: Recommendation: (A or C from the list above) Signature:	Date: 8/3/69
Supervisory Special investigator: Recommendation:(A or From the list above)	
Signature: ())	Alaha
My C. Name	Date: 8/4/09
District Manager: Action Decision: (A of C from the list above) Signature: West House	Date: 8/4/09 Date: 8/4/09
	Sull
Signature: What Hayna	Sull
Signature: When I Handran ADDITIONAL COMMENTS OR REMARKS: This find attorn bloom no Arteria for further review fench of This, land a kick degree of back the	Sull
Signature: When Then the State of the Addition they me and the fastly respect the factor of the state of the	Date: 8/4/2007 I mest: ste exposure is Mot shown
Signature: When Handran ADDITIONAL COMMENTS OR REMARKS: This final et on does, mo Criteria for further review tension of A land a first degree of sold place CASE ASSIGNMENT INFORMATION: Investigation Case No.	Sull

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data *	
1. Date Mo Da Yr 2. Time (24 Hr. Clock)	3. Citation/ * Order Number 8084967
07/29/2009 1130	
4. Served To Gary May, mine foreman	5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition or Practice	8a. Written Notice (103g)
The operator is using belt air to	
en e	See Continuation Form (MSHA Form 7000-3a)
	C. Part/Section of
Safety. of Act Other 0 Section II-Inspector's Evaluation 10. Gravity: A. Injury of Illness (has) (is): No Likelihood 0 Unlikely:	Title 30 CFR 75:350(a)
Other Section II-Inspector's Evaluation 10. Gravity: A. Injury of Illness (has) (is): No Likelihood Unlikely	Title 30 CFR 75;350(a)
Other Section II-Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely Section IIInjury or Illness could reasonably be expected to be: No Lost Workdays Lost Workdays C. Significant and Substantial: Yes V No Section IIInjury No Section IIInjury Office IIIInjury Office IIInjury Office IIInjury Office IIInjury O	Title 30 CFR 75;350(a) Reasonably Likely ☑ Highly Likely □ Occurred □ orkdays Or Restricted Duty □ Permanently Disabling ☑ Fatal □
Other Section III-Inspectors Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely Section III-Injury or Illness could reasonably be expected to be: No Lost Workdays Lost Workdays C. Significant and Substantial: Yes V No Section 11. Negligence (check one) A. None B. Low C.	Title 30 CFR 75;350(a) Reasonably Likely Highly Likely Occurred orkdays Or Restricted Duty Permanently Disabling Fatal D. Number of Persons Affected: 003 Moderate D. High E Reckless Disregard
Other Section II-Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely B. Injury or Illness could reasonably be expected to be: No Lost Workdays Lost Workdays C. Significant and Substantial: Yes No I 11. Negligence (check one) A. None B. Low C	Title 30 CFR 75,350(a) Reasonably Likely Highly Likely Occurred orkdays Or Restricted Duty Permanently Disabling Fatal D. Number of Persons Affected: 003 Moderate D. High E. Reckless Disregard ince (check one) Citation Order Safeguard Written Notice E. Citation/ 8082692 F. Dated Mo. Da Yr
Other ☐ Section IIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII	Title 30 CFR 75;350(a) Reasonably Likely Highly Likely Occurred orkdays Or Restricted Duty Permanently Disabling Fatal D. Number of Persons Affected: 003 Moderate D. High E. Reckless Disregard ince (check one) Citation Order Safeguard Written Notice E. Citation/ 2022/02 F. Dated Mo. Da. Yr
Other	Title 30 CFR 75;350(a) Reasonably Likely ☑ Highly Likely ☐ Occurred ☐ orkdays Or Restricted Duty ☐ Permanently Disabling ☑ Fatal ☐ D. Number of Persons Affected: 003 Moderate ☐ D. High ☑ E. Reckless Disregard ☐ ince (check one) Citation ☐ Order ☑ Safeguard ☐ Written Notice ☐ E. Citation/ Order ☑ Safeguard ☐ Mo. Da Yr Order Number 03/17/2009
Other ☐ Section III-Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workd	Title 30 CFR 75;350(a) Reasonably Likely ☑ Highly Likely ☐ Occurred ☐ orkdays Or Restricted Duty ☐ Permanently Disabling ☑ Fatal ☐ D. Number of Persons Affected: 003 Moderate ☐ D. High ☑ E. Reckless Disregard ☐ ince (check one) Citation ☐ Order ☑ Safeguard ☐ Written Notice ☐ E. Citation/ Order ☑ Safeguard ☐ Mo. Da. Yr. Order Number 03/17/2009
Section III-Termination Due Other □ Section III-Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood □ Unlikely □ B. Injury or Illness could reasonably be expected to be: No Lost Workdays □ Lost Workday	Reasonably Likely Highly Likely Occurred Permanently Disabiling Fatal D. Number of Persons Affected: 003 Moderate D. High E Reckless Disregard ince (check one) Citation Order Safeguard Written Notice E. Citation/ Order Number 8082692 F, Dated Mo.Da Yr Order Number 03/17/2009
Section III-Termination Due Other	Title 30 CFR 75;350(a) Reasonably Likely ☑ Highly Likely ☐ Occurred ☐ orkdays Or Restricted Duty ☐ Permanently Disabling ☑ Fatal ☐ D. Number of Persons Affected: 003 Moderate ☐ D. High ☑ E. Reckless Disregard ☐ ince (check one) Citation ☐ Order ☑ Safeguard ☐ Written Notice ☐ E. Citation/ Order ☑ Safeguard ☐ Mo. Da. Yr. Order Number 03/17/2009
Other Section III-Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): No Likelihood □ Unlikely □ B. Injury or Illness could reasonably be expected to be: No Lost Workdays □ Lost Workday	Reasonably Likely Highly Likely Occurred Drikdays Or Restricted Duty Permanently Disabiling Fatal Dr. Number of Persons Affected: 003 Moderate D. High E. Reckless Disregard Written Notice E. Citation Order Safeguard Written Notice E. Citation 8082692 F. Dated Mo. Da Yr Order Number 03/17/2009

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-73-43247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 and Sireet, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINEID 46-0843G MSHAOFFICE MT HOPE
MINENAME Upper Big Brown Mine South
COMPANY NAME Performance Coal Confany
Citation/Order No. 80849.6C Date 7-25-09
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO If yes: Fatat? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)
1, Did the condition or practice cited create the presence of a high degree of risk to the health and/or safety of miners? Yes W
a) Who was exposed to the hazard? (Name and Occupation)
Danny Ferrell, CMO; Daniel Davis, RBO; Ed Morney SCO. b) How were they exposed to the hazard? Working in the return and appeared to Sund all
colting below, and function aimst morning of the exposure occur?
d) Is this first hand information? Yes ☑ No ☐ If not, who provided the information? (Name and Occupation)
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the violation? Yes No \(\) a) Who had this knowledge? (Name and Title)
b) How was this knowledge evidenced? He pre-alighed and Fire borred Section.
c) Is this first hand information? Yes of No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: This software the Defense of Alacon for the Defense of Software the Defense of
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory health or safety standard? Yes No
Inspector AR Number: 1455 & Signature: Kany Hednile Date: 8-3-03
Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: Date: 9/3/09
POSSIBLE RECOMMENDED ACTIONS:
A. Conduct a special investigation. C. No further action.
Assistant District Manager: Recommendation: A (A or C from the list above) Signature: Date: 8/5/69
Supervisory Special Investigator, Recommendation C. (Kor C from the list above) Signature: Date: 8/4/07
District Manager Action Decision () (A or Offrom the list above) Signature: 47
ADDITIONAL COMMENTS OR REMARKS: Kechiced length & Masure 4 his
and hick degree of rest was not
CASE ASSIGNMENT INFORMATION:
Investigation Case No Date Assigned
Investigator Assigned ID No

ne Citation/Order		Department of Labor Safety and Health Adr		Told III
Section I-Violation Data			THE PERSON NAMED OF THE PE	, ,
1. Date Mo Da Yr , 2. Time (24 Hr. Cl 07/29/2009 113			Sitation/ Order Number 8084	1966
4. Served To	5. Оре		2. M. A. M. A. M. 2. 777. 2. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.	
Gary May, mine foreman		ORMANCE COAL C	COMPANY	
5. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine	^{∍ID} 46-08436		(Contracto
B. Condition or Practice	<u> </u>		8a Writ	ten Notice (103g)
The operator did not have section. When checked there				ne number
	en de la companya de La companya de la co		n.	
			See Continuation Form (MS	HA Form 7000.3a)
O: Violation A. Health B. Section	C. Part/Secti Title 30 Cl	on of	75.370(a)(1)	
ection II-Inspector's Evaluation				
O. Gravity: A. Injury or Illness (has) (is): No Likelihood	Unlikely 🔲 Reason	ably Likely 🔲 Highly	Likely 🗹 Occi	urred 🔲
B. Injury or Illness could rea- sonably be expected to be: No Lost Workda	ays [] Lost Workdays Or R	estricted Duty Perr	manently Disabling 🔽	Fatal 🔲
Take the contraction of the cont	Nö 🔲	D. Nún	nber of Persons Affecte	d: 003
1. Negligence (check one) A. None 🔲	B. Low C. Moderate	D. High 📝	E. Reckless Disre	gaid 🔲
2. Type of Action 104(d)(2)	13. Type of Issuance (check o	ne) Citation 🗌 Orde	r ☑ Safeguard [Written Notice [
4. Inifial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ L	D: Written Notice D. E. Citation Order	on/ Number 808269	2 F. Dated	Mo Da Yr 03/17/2009
5. Area or Equipment Number 1 secti	jøn.		•	
6, Termination Due A. Date Mo Da Yr	B. Time (24 Hr. Clock)			
	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~			
ection III—Termination Action	s were built in t	South Asset Market Control of the Co	en german de grande ann garden. Notae anno 1945 ann an 1948 — Santae	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmes. Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-988-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 and Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

6284319

21. Primary or Mill

23. AR Number

24558

Section IV-Automated System Data 19. Type of Inspection

(activity code)

22. Signature

E02

Harry Kelrick

20. Event Number

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional information)	U.S. Department of Labor Mine Safety and Health Administration	
WINE ID 460 8436 MSHA OFFICE		
MINENAME Upper Big Branch Mine - 5	···· A	
	ndanu	
		
Citation/Order No. 8094547		10000
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO⊠ If yes: Fatal? ☐ Non-	fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)		
 Did the condition or practice cited create the presence of a high degree of risk to the table. Who was exposed to the hazard? (Name and Occupation): 	n w	
Names of miners are atta		secti
b) How were they exposed to the hazard? No+having 9.50	ife escape way to	trav
for drills and in the event. c) When and over what period of time did the exposure occur? This col	of evacuation	<u> </u>
5e UECAL Shifts	IN ITION MAS EXISTED	f.01
d) Is this first hand information? Yes No \ No \ If not, who provided the information? (Name and Occupation)		
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or c	ond(tions constituting the violation? Yes⊠ No□	
a) Who had this knowledge? (Name and Title) Stave Harris		
and a control of the transfer of the control of th	karan kan kan ang kan ang kanan ang kana	0.47
b) How was this knowledge evidenced? Mr. Harris cond exam of this are q on 7/2 c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation)	ucted the weeklu 8/09	
exam of this area on 1/2 c) is this first hand information? Yes ₽ No □	ucted the weeklu	
exam of this area on 1/2 c) Is this first hand information? Yes No \(\bigcap \) If not, who provided the information? (Name and Occupation)		
c) Is this first hand information? Yes \(\frac{1}{2} \) No \(\subseteq \) No \(\subseteq \) Any other pertinent information: INSPECTOR'S CONCLUSION:		SO No.
CXGM OF THIS GREGON 7/2 c) Is this first hand information? Yes A No If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate Inspector AR Number: 21172 Signature: Signature: Signature: S	on of the Act or mandatory health or safety standard? Ye Ottley Date: FI - 41 -	© No. ⊠ - Ø9
CXGM OF This GREGON 7/2 c) Is this first hand information? Yes A No If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation.	on of the Act or mandatory health or safety standard? Ye	© No. ⊠ - Ø9
CXGMOFTHIS GREGON 7/2 c) Is this first hand information? Yes PNo If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in the provisor of the provisor. Do you agree with the inspector's conclusion? Yes PNo []	on of the Act or mandatory health or safety standard? Ye Other Date: 6-6-	© No. ⊠ - Ø9
c) Is this first hand information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in the province of	on of the Act or mandatory health or safety standard? Ye Other Date: 6-6-	© No.⊠ - Ø9 2009
c) Is this first hand information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation) \(\) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in this review, does this appear to be a possible knowing and/or willful violation in the inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \(\) No \(\) Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. \(\) C. No further action. \(\) Assistant District Manager: Recommendation: \((A \) or C from the list above) Signature: Supervisory Special Investigator: Recommendation: \((A \) or C from the list above)	on of the Act or mandatory health or safety standard? Ye Outly Date: F-4- Date: 7/0/0	© No.⊠ - Ø9 2009
c) Is this first hand information? Yes \(\frac{1}{2} \) No \(\begin{array}{c} \) If not, who provided the information? (Name and Occupation) \(\begin{array}{c} \) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: \(\begin{array}{c}	on of the Act or mandatory health or safety standard? Ye Other Date: F-4- Date: 7/6/0	© No.⊠ - Ø9 2009
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) \ 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in the inspector AR Number: \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	Date: 8/1/	© No.⊠ - Ø9 2009
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number; Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: C. No further action. In the list above of the list abov	Date: 8/1/	© No.⊠ - Ø9 2009
c) Is this first hand information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONGLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in the inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \(\) No \(\) Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. \(\) Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: (A or C from the list above) Signature: District Manager: Action Dicision: ADDITIONAL COMMENTS OR REMARKS: ADDITIONAL COMMENTS OR REMARKS: A possible knowing and/or willful violation. (A or C from the list above)	Date: 8/1/2/2	© No.⊠ - Ø9 2009
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number; Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: C. No further action. In the list above of the list abov	Date: 8/1/2/2	© No.⊠ - Ø9 2009

WHITE: SPECIAL INVESTIGATOR

MSHA Form 7000-20, June 97 (revised)

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Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration 8/4/09
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 1330	3. Citation/ Order Number 8094547
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY
6. Mine	
UPPER BIG BRANCH MINE-SOUTH 8. Condition or Practice	7. Miles ID 46-08436 (Contractor) 8a. Written Notice (103g)
THE OPERATOR FAILED TO MAINTAINED THE	
SECTIONS, IN A SAFE CONDITION TO ALWAY DISABLE PERSONS. APPROXIMATELY 6 TO DISTANCE OF 7.0 FEET, CINDER BLOCKS, MI PRESENT 20 FT. INBY THE FAN, CREATING APPROXIMATELY TWELVE ROWS OF ROOF SUPP	ASSURE PASSAGE OF ANYONE INCLUDING 18 INCHES OF WATER WAS PRESENT FOR A ETAL BEAMS, 6 BY 6 TIMBERS, AND MUD WAS SLIP, AND TRIP HAZARDS. ALSO PORT WERE DAMAGED TO WHERE THE PLATES FELINE HAD BEEN INSTALLED FROM THE MAN
EDSOED FOR THESE CONDITIONS.	
- de	
	See Continuation Form (MSHA Form 7000-3a)
9. Violation A. Health B. Section C. Safety Other of Act	Part/Section of Title 30 CFR 75.380(d)(1)
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely	Reasonably Likely V Highly Likely Occurred
B. Injury or illness could rea- sonably be expected to be: No Lost: Workdays . Lost Work	days Or Restricted Duty 📝 Permanently Disabling 🗌 Fatat 🗌
G, Significant and Substantial: Yes ☑ No ☐	D, Number of Persons Affected: 018
11. Negligence (check one) A. None . B. Low . C.1	Moderate ☐ D. High ☑ E. Reckless Disregard ☐
12. Type of Action 104(d)(2) 13. Type of Issuance	
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15. Area of Equipment THE #3 AND #4 SECTIONS PE	TMARY ESCAPEWAY FROM THE FAN TO THE
FIRST CONNECTING CROSS CUT UNDERGROUND	
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III-Termination Action	
17. Action to Terminate	
18. Terminated A. Date MoDa Yr B. Time (24 Hr. Clock)	
Section IV-Automated System Data	resigned a la company de la c
19. Type of Inspection (activity code) E01 20. Event Number 4119293	21. Primary or Mill
22. Signature Oous & Other	23. AR Number 24172
MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small established a National Small Business and Agriculture Regulatory Ombudsman and 10 Replotement activities and rail of the Small endorsement endorsemen	Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has egional Fairness Boards to receive comments from small businesses about federal agency les each egency's responsiveness to small business. If you wish to comment on the

MSTA Form 7000-3, Apr 08 (revised) 1. In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSHA, you may call 1-888-REG.FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Sfreet, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Mine Citation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration	
Section I-Subsequent Action/Continuation Data		
1. Subsequent Action 1a. Continuation 2. Dated Mo D (Original Issue) 08/03/3	a Yr 3. Citation/ 2009 Order Number 8094547 - 01	
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	M. Marianana
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
Section II—Justification for Action	randrina karakan da angang atau barah da da sa mangan da angan da da sa mangan da sa mangan da sa mangan da sa Barah da da sa	one exercise there is a second of explored to the second of explored to the second of

THE OPERATOR IS NOW PROVIDING A CLEAR AND SAFE TRAVELWAY.

Section III-Subsequen	nt Action Taker	m present P		rayayayaa qayaa ahaa ahaa ahaa ahaa ahaa			See Continuation Form
B. Extended To A.	Date Mo	Da Y	B. Time (24 Hr. Clock)		C. Vacated	D. Terminated	☐ E. Modified
Section IV-Inspection	Data						
G Type of Inchaction	on Tool	110	Frent Number 4110	200			
9. Type of Inspection	on E01	10	Event Number 4119	293		140	

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MSHA OFFICE 0401	
MINENAME Upper Big Branch Mine - South	
COMPANYNAME PERFORMANCE COOL COMPONY	
Sitation/Order No. 8094548 Date 8-3-09	
manding of the first of the fir	558-555-575550-558-5
CCIDENT INFORMATION: Vas this violation associated with an accident which caused an injury? YES□ NO 区 to	f yes: Fatal? Non-fatal?
EVIEW CRITERIA: (Attach supplemental information if needed)	··
Did the condition or practice cited create the presence of a high degree of risk to the health and/or safety of miners a) Who was exposed to the hazard? (Name and Occupation)	
Names of miners are attached for #3	7 #4 section
b) How were they exposed to the hazard? NO+ having a continuous the Surface	life line to
c) When and over what period of time did the exposure occur? This condition ha	s existed for
d) Is this first hand information? Yes \(\sum \) No \(\sum \) If not, who provided the information? (Name and Occupation)	
Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the viole	ation? Yes⊠ No□
a) Who had this knowledge? (Name and Title) 5 teve Harris Fire Boss	The control of the co
b) How was this knowledge evidenced? Mr. Harris conducted the Of this area on 11-18-09	weekly exa
c) Is this first hand information? Yes 🛛 No 🗌	
c) Is this first hand information? Yes 🕱 No 🗌 If not, who provided the information? (Name and Occupation)	
c) Is this first hand information? Yes 🗵 No 🗌	
c) Is this first hand information? Yes 🕱 No 🗌 If not, who provided the information? (Name and Occupation)	
c) Is this first hand information? 'Yes X No If not, who provided the information? (Name and Occupation)	
c) Is this first hand information? Yes X. No \(\sum_{\text{loc}}\) If not, who provided the information? (Name and Occupation) Any other pertinent information:	alth or safety slandard? Yes. No [2
c) Is this first hand information? 'Yes \(\omega_{\text{No}} \) No \(\omega_{\text{No}} \) If not, who provided the information? (Name and Occupation) \(\omega_{\text{No}} \) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory he	alth or safety slandard? Yes⊡ No [≥ Date: & — ∐ — O ° €4
c) Is this first hand information? Yes X No If not, who provided the information? (Name and Occupation) If not, who provided the information? (Name and Occupation) Is Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory he Inspector AR Number: 2 1 1 7 2 Signature: Occupation No If the Inspector's conclusion? Yes If No If	Date: 8 -4 ~0 °4
c) Is this first hand information? Yes X No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory he inspector AR Number: 2 Ling 2 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes I No I Signature:	and the second s
c) Is this first hand information? Yes \(\text{No} \) \\ If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory he inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \(\text{No} \) \\ Signature: No \(\text{Supervisor} \) Signature: COSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. \(\text{C} \) C. No further action.	Date: 8 -4 -0 °4
c) Is this first hand information? Yes \(\text{No} \) \\ If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory he inspector AR Number: Signature: Supervisor: Do you agree with the inspector's conclusion? Yes \(\text{No} \) No \(\text{No} \) Signature: COSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation, \(\text{L} \) C. No further action. \(\text{L} \) Assistant District Manager: Recommendation: (A OCC from the list above)	Date: 8-4-0-4 Date: 8-6-200
c) Is this first hand information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation) b. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory he inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \(\) No \(\) Signature: NOSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. \(\) C: No further action.	Date: 8-4-09
c) Is this first hand information? Yes \(\text{No} \) \\ If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory he inspector AR Number: Signature: Supervisor: Do you agree with the inspector's conclusion? Yes \(\text{No} \) No \(\text{No} \) Signature: COSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation, \(\text{L} \) C. No further action. \(\text{L} \) Assistant District Manager: Recommendation: (A OCC from the list above)	Date: 8-4-0-9 Date: 8-6-2-99
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) If not, who provided the information? (Name and Occupation) Is Any other pertinent information: NSPECTOR'S CONCLUSION:	Date: 8-4-0 9 Date: 8-6-200 Date: 8/0/09
c) Is this first hand information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation) S. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory he inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \(\) No \(\) Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation, \(\) Assistant District Manager: Recommendation: Signature: Supervisory Special investigator: Recommendation: Supervisory Special investigator: Recommendation: Supervisory Special investigator: Recommendation: Signature: Supervisory Special investigator: Recommendation: Signature: Supervisory Special investigator: Recommendation: ACCURATE Transitive list above)	Date: $8-4-0.4$ Date: $8-6-200$ Date: $8/6/69$ Date: $8/11/69$
If not, who provided the information? Yes No I If not, who provided the information? (Name and Occupation) NAME ANY other pertinent information: NAME ANY other pertinent information: NAME ANY other pertinent information: NAME ANY other pertinent information? NAME ANY other pertinent information? (Name and Occupation) NAME ANY other pertinent information? NAME ANY other pertinent information? (Name and Occupation) NAME ANY other pertinent information: NAME ANY other pertinent information? NAME ANY OTHER ANY OT	Date: $8-4-0$ 9 Date: $8-6-200$ Date: $8/6/69$ Date: $8/11/69$
If not, who provided the information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S GONGLUSION:	Date: $8-4-0.4$ Date: $8-6-200$ Date: $8/6/69$ Date: $8/11/69$
CASE ASSIGNMENT INFORMATION: No provided the information? Yes \ No \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	Date: $8-4-0.4$ Date: $8-6-200$ Date: $8/6/69$ Date: $8/11/69$

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	3(11)	Uncar	moluci

II.S. Department of Labor

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((*))	

				Mine Safe	lv and Health	Administratio	n 10	
Section I-Viola	tion Data				*		20 <u>2. 1000</u> 1000 1000	
1. Date	Mo Da Yr 08/03/2009	2. Time (24 Hr. 1	Clock) 135			3. Citation/ Order Number	8094	548
4. Served To				5, Operator		<u> </u>		
RICK FOS	TER (MINE I	OREMAN)		PERFORI	MANCE CO.	AL COMPAN	Y	· na
6, Mine			Par more la	7. Mine ID	46-0843	6	The state	AN AN AN
	G BRANCH M	INE-SOUTH	<u> </u>			<u>. </u>	0. 116.02	(Contractor) n Notice (103g)
8. Condition of		TEB WO THE	STALL A CON	TET NEIGHT AN	in Dubyb	LE LIFELI		ir Notice (103g)
APPROX1	MATELY 13 Cross cut	5 ET. FROM	M THE AIRLOUND. THIS I	OCK DOORS	F THE F	AN TO THE	FIRST	
24,4201					•	•	į.	
	•							
	·						-	
							•	
					•			
		• .				See Continuat	ion Form (MSH	A Form 7000-3a)
9. Violation	A. Health Safety 🗸	B. Section of Act	ana a taong an gang din diga diga diga. -	C. Part/Section of Title 30 CFR		75.380(d)(
Section II-Inspe	ector's Evaluation	a andre de la companya de la compan	A CONTRACTOR OF THE PARTY OF TH		· · · · · · · · · · · · · · · · · · ·		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
10. Gravity:	91.146			Section 1				To Discourse 1971
207	r Iliness (has) (is):	No Likelihood	Unlikely 🗌	Reasonably	ikely 🔽	Highly Likely	Осси	rred 🗍
	r illness could rea- be expected to be:	No Lost Work	days 🗌 Lost V	Vorkdays Or Restric	ted Duty 🗸	Permanently Di	sabling 🔲	Falal 🔲
G. Signific	ant and Substantial	Yes ☑	No. 🗍		1	D. Number of Pers	sons Affected	t: 018
11. Negligeno	e (check one)	A None 🗌	B. Low	C. Moderate	D. High 6	Z E. Red	kless Disreg	ard 🔲
12. Type of A	ction 104(d)(2)	13. Type of Issu	uance (check one)	Citation [Order 🗹 Sa	feguard 🔲	Written Notice
14. Initial Acti A. Citation		C. Safeguard	D. Written Notice	E. Citation/ Order Num	ber 80	82692	F. Dated	Mo Da, Yr 03/17/2009
15. Area or E	qwipment тнЕ	#3 AND #4	4 SECTIONS	PRIMARY ES	CAPEWAY	FROM THE	FAN TC	THE
FIRST (I UNDERGROU		en er er er en	, TOTAL TOTAL STREET		
16. Terminati	on Due A. Date	Mo Da Yr	B. Time (24 Hr. Clo	nck)				
marka in versa	<u> </u>	<u> </u>			<u> </u>			· · · · · · · · · · · · · · · · · · ·
Section III—Ten		a de allino de la composición de la co						<u></u>
(11.5.3.000 ILO	i eminarë.		·		• .	."		·
		<u></u>	<u> </u>	<u></u>	·			
18. Terminate	A. Date Mo	Da Yr B. Tim	ie (24 Hr. Clock)	1858 82		1.		
	omated System Data							
19. Type of Ir (activity c		20. Event Numb	^{er} 411929	3 ^{21. Pril}	nary or Mill			
22, Signature	Over	2 (athey			23. AR Num	ber 24	172
MSHA Form 70 established a N	100-3, Apr 08 (revised) Jational Small Business	in accordance will and Agriculture Regu	th the provisions of the S ulatory Ombudsman and	mall Business Regulato 10 Regional Falmess E	ry Enforcement Fa	irness Act of 1998, U	ne Small Busine businesses abo	ess Administration has out federal agency

enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest digitions and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Mine Citation/Order Continuation	- <u> </u>	*	U,S. De Mine Sa	partment of Labor fety and Health Adn	fl5/oq ninistration	
Section I-Subsequent Action/Continuation Data					<u> </u>	
1. Subsequent Action 1a. Continuation	2, Dated (Original Issue)	Mo Da 08/03/20	Υτ 09	3. Citation/ Order Number 809	94548 - 01	
4. Served To RICK FOSTER (MINE FOREM	AN)		5. Operato PERFO	or RMANCE COAL C	OMPANY	
6. Mine UPPER BIG BRANCH MINE-SC	UTH		7. Mine IC	46-08436	:	(Contractor)
Section II—Justification for Action	ian 15 - Araban da araban d - Banar da araban da	Tida ing Paragapanan Laga yang saga pagaba Tan	edos ress	2000 2000 2000 2000 2000 2000 2000 200	edergija sega sa jede	verteringstiffic the second

THE LIFELINE IS NOW INSTALLED IN THE AFFECTED AREA.

Section III-Subsequent Action Take	ia:	<u> </u>	1. <u>18</u> 2. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2				See Continuation Form
8. Extended To A. Date Mo	Da \	B, Time (24 Hr. Clock)		C, Vacated	D. Terminated	E. Modified
Section IV-Inspection Data 9. Type of Inspection E01	10	. Eyent Numb	er 4119293		- 10 CO		Account to the second s
An Signature S	at	herp	AR Number 24172	12. Date	Mo Da Yr 08/04/2009	13. Time (24 Hr. Cl 1100	

POSSIBLE: KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINEID 4608436 MSHA OFFI	GE 0401
April 1	- south
2 13 13 12 12 13 13 13 13 13 13 13 13 13 13 13 13 13	mpany
2 8 6	Date 8-3-09
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO. No. li yes: Fatal? Non-fatal?
REVIEW GRITERIA: (Attach supplemental information it needed)	
 Did the condition or practice cited create the presence of a high degree of risk to it Who was exposed to the hazard? (Name and Occupation) 	*
Names of miners are attach	ed for #37 #4 sections
b) How were they exposed to the hazard? No+ howing a	current escape way
map in the bath house to	
bath house for several	ap nas been posted in the
d) is this first hand information? Yes No \(\) If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts and Who had this knowledge? (Name and Title) ₹1⊂ ★ 〒○5十户 ↑	or conditions constituting the violation? Yes No
a) Who had this knowledge? (Name and Title) RICK FOSTER	Mine Foreman
b) How was this knowledge evidenced? The map should by Mri Foster to make sure	t have been reviewed
c) Is this first hand information? Yes 🖾 No 🗌	
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	
	CANADA CARANTA
<u>a mangantang kanalah awa mangan man Mangan mangan </u>	The state of the s
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful vio	
The second secon	L ather Date: 8~4~09
	F 4404
Supervisor: Do you agree with the inspector's conclusion? Yes No D	Date: 8-6-200
POSSIBLE RECOMMENDED ACTIONS:	
A Conduct a special investigation. C. No further action.	THE STATE OF THE S
Assistant District Manager: Becommendation: (A or C from the list above	"
Signature: Such & Adds S	Date: \$1/6/69
Supervisory Special Investigator: Recommendation: Coron the list	
Signature: Day 2 . * Lacoles	Date: 8/11/09
District Manager: Action Decision: A (Aor C from the list above) Signature:	Date 8 1/2/2009
ADDITIONAL COMMENTS OR REMARKS: 772 12017	to does not most
the contains the contains	110 1115 121
- an energy for a	11 musicalion,
CAPE ACOLCANIENT INCODERATION!	
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	

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Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section i-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock)	3. Citation/ Order Number 8094549
	5. Operator
RICK FOSTER (MINE FOREMAN)	PERFORMANCE COAL COMPANY
6. Mine	* Marie Tim
UPPER BIG BRANCH MINE-SOUTH	7. Mine 15 46-08436 (Contractor)
8. Condition or Practice	8a. Written Notice (103g)
THE ESCAPEWAY MAP WHERE MINERS CONGREGA UP TO DATE. THIS MAP SHOWS THE PRIMARY (#4), BUT THE ACTUAL ESCAPEWAY COMES OU	ESCAPEWAY COMING OUT THE OLD FAN ENTRY
	·
	See Confinuation Form (MSHA Form 7009-3a)
9. Violation A. Healin B. Section C. Pa	nt/Section of
Safety of Act Tit	e 30 CFR 75.1505(b)
Other Section It-inspector's Evaluation	
10. Gravity:	
	Reasonably Likely Highly Likely Occurred
B: Injury or Illness could rea- consolv he expected to be. No Lost Workdays V Lost Workda	ys Or Restricted Duty Permanently Disabling Fafat
A AT THE STATE OF	He was a series of the series
C. Significant and Substantial: Yes No 2	D. Number of Persons Affected: 018
11. Negligence (check one) A. None B. Low C. Moz	lerate ☐ D. High ☑ E. Reckless Disregard ☐
12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order 🗸 Safeguard Written Notice 🗌
14. Initial Action ☐ B. Order ✔ C. Safeguard ☐ D. Written Notice ☐	Citation 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15. Area or Equipment THE #3 AND #4 SECTIONS.	
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section IIITermination Action	
17. Action to Terminate	
18. Terminated A. Date MoDa Yr B. Time (24 Hr. Clock)	
Section IV-Automated System Data	
19. Type of inspection (activity code) E01 20. Event Number 4119293	21. Primary or Mill
22. Signature (aly & athey	23. AR Number 24172
MSFIA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Smell Bus	iness Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-8186-FAIR (1-888-7343247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

660000-VHSAS-14-cr-00244 Document 311-4 Filed 08/18/15 Page 89 of 156 PageID #: 5736 Mine Citation/Order U.S. Department of Labor Mine Safety and Health Administration Continuation Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation Dafed
 (Original Issue) 3. Citation/ Order Number 8094549 - 01 Мо Da \mathbf{V} 08/03/2009 4. Served To 5. Operator RICK FOSTER PERFORMANCE COAL COMPANY (MINE FOREMAN) 6. Mine 7. Mine ID (Contractor) 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II-Justification for Action THE ESCAPEWAY MAP LOCATED IN THE BATH HOUSE IS NOW UP TO DATE.

e <u>- Sandara a como a conseguenção de capação e capação de capação que a capação que a capação de capação de capa</u>	ing. Santanan da		See Co	ntinuation Form
Section Iti-Subsequent Action Taken				i de la
8. Extended To A. Date Mo Da Yr B. T	ime (24 Hr. Clock)	☐ C. Vacated 🔽	D. Terminated 🔲 🗒 [Modified
Section IV-Inspection Data		nikarangangan kan kanalasan da salah s Salah salah sa		
9. Type of Inspection E01 10, Event	Number 4119293	in de la compania de La compania de la compania del compania de la compania del compania de la compania del la compania de la compania del la compania de la compania de la compania de la compania del la compania de la compania del la compania dela		
Bignature & Cither	AR Number 12. Dai	te Mo Da Yr 13 08/04/2009	. Time (24 Hr. Clock) 1230	i
MSUA Com 7000 20 Mar 95 Parland				

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration
MINE ID 4608436 MSHA OFFICE	· 0401
MINENAME Upper Big Branch Mine	
	ompany
2000	
Citation/Order No. GV 1970 Z	ale 8-3-04
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO Non-tatal? Non-tatal?
REVIEW CRITERIA: (Atlach supplemental information if needed)	health and/or safety of miners? Yes No 🔯
 Did the condition or practice cited create the presence of a high degree of risk to the a) Who was exposed to the hazard? (Name and Occupation) 	
Names of miners are attack	red for #3+ #4 section
b) How were they exposed to the hazard? Having unsuppo	rted top in the intake
escape way c) When and over what period of time did the exposure occur? This co	and the least offer that says
52020 Q 5 Ni ++ 6	AULITION NES CUSTED FOR
d) Is this first hand information? Yes No	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or	conditions constituting the violation? Yes⊠ No□
a) Who had this knowledge? (Name and Title) Steve Harris	Fire Boss ducted the weekly
b) How was this knowledge evidenced? MC, Harris con	ANCHED INC WEEKIN
exom of this erec on □-2 { c) is this first hand information? Yes ☑ No□	7-09
c) Is this first hand information? Yes \(\sime\) No \(\sime\) If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	
c) Is this first hand information? Yes No \(\text{No } \) If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violated.	
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violated inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes I No I	ion of the Act or mandatory health or safety standard? Yes \ Not \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
c) Is this first hand information? Yes \(\) No \(\) If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violated inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \(\) No \(\) Signature: Signature:	ion of the Act or mandatory health or safety standard? Yes□ NotS
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violated inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Signature: Character AR Number: A Conclusion No I No	ion of the Act or mandatory health or safety standard? Yes \ Not \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: 2117 7 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature:	ion of the Act or mandatory health or safety standard? Yes Not 8 Q OT A Date: 8-4-09 Date: 8-6-2009
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: 2 I I 7 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action.	ion of the Act or mandatory health or safety standard? Yes \ Not \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: A or C from the list at	ion of the Act or mandatory health or safety standard? Yes Not S Date: 8-4-09 Date: 8-6-2-09 Date: 8-6-2-09
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violated inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Signature: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: A or C from the list at Signature: Supervisory Special Investigator: Recommendation: Signature: Supervisory Special Investigator: Recommendation: A or C from the list at Signature:	ion of the Act or mandatory health or safety standard? Yes Not S Other Date: 8-4-09 Date: 8-6-2-09
If not, who provided the information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violated inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: A or C from the list at Signature: District Manager: Axion Section: District Manager: Axion Section: District Manager: Axion Section: District Manager: Axion Section: No I with the list at Signature: District Manager: Axion Section: A or C from the list at Signature:	ion of the Act or mandatory health or safety standard? Yes Not S Date: 8-4-09 Date: 8-6-2-09 Date: 8-6-2-09
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violat inspector AR Number: 2 I I 7 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: Supervisory Special investigation: Recommendation: Supervisory Special investigation: Recommendation: A or C from the list at Signature: District Manager: Action Decision: Hor C from the list above) Signature:	ion of the Act or mandatory health or safety standard? Yes Not S Date: 8-4-09 Date: 8-6-2009 Date: 8/11/04
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violat inspector AR Number: 2 I I 7 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: Supervisory Special investigation: Recommendation: Supervisory Special investigation: Recommendation: A or C from the list at Signature: District Manager: Action Decision: Hor C from the list above) Signature:	ion of the Act or mandatory health or safety standard? Yes Not S Date: 8-4-09 Date: 8-6-2009 Date: 8/11/04
If not, who provided the information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violated inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special investigator: Recommendation: A or C from the list at Signature: District Manager: Action Decision: District Manager: Action Decision: District Manager: Action Decision: A or C from the list at Signature: District Manager: Action Decision: District Manager: Action Decision: A or C from the list above) Signature:	Date: 8/12/2007 Date: 8/12/2007
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violate inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: FOSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special investigator: Recommendation: Signature: District Manager: Action Recommendation: District Manager: Action Recommendation: ADDITIONAL COMMENTS OR REMARKS: ADDITIONAL COMMENTS OR REMARKS:	Date: 8/12/2007 Date: 8/12/2007

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Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section IViolation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 1325	3. Citation/ Order Number 8094552
4. Served To	5. Operator PERFORMANCE COAL COMPANY
RICK FOSTER (MINE FOREMAN)	THE PARTY OF THE P
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition or Practice	8a, Written Notice (103g)
THE BEARING PLATES ON APPROXIMATELY 35 MINE ROOF 20 FT. INBY THE FAN IN THE # DOWN THIS WAS CREATING UNSUPPORTED ROO APPROXIMATE DISTANCE OF 48 FT.	X 207, 1 X 100 100 100 100 100 100 100 100 100
was the second of the second o	
	For the second
•	
•	
	See Continuation Form (MSHA Form 7000-3a)
Safety ✓ of Act	Part/Section of tile 30 CFR 75.204(c)(1)
Other Section II-Inspectors Evaluation	
10. Gravity:	
A. Injury or Illness (has) (is): No Likelihood Unlikely	Reasonably Likely Highly Likely Occurred
D. Jeiking as illower as officer	lays Or Restricted Duty 🕢 Permanently Disabling 🗌 Fatal 🗍
C. Significant and Substantial: Yes V No	D, Number of Persons Affected: 018
11. Negligence (check one) A. None B. Low C. M	oderate [D. High E. Reckless Disregard [
12; Type of Action 104(d)(2) 13, Type of Issuance	(check one) Citation Order V Safeguard Written Notice
14. Initial Action A. Citation ☐ B. Order ✔ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 8082699 P. Dated Mo Da Yr
	OUTH PORTAL TO THE FIRST CONNECTING
CROSS CUT.	DOIN FORTAL TO THE FIRST CONNECTING
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III-Termination Action	
17. Action to Terminate	* * * * * * * * * * * * * * * * * * *
18. Terminated A. Date MoDa Yr B. Time (24 Hr. Clock)	
	, and the figure of the control of
Section N-Automated System Data 19. Type of Inspection (activity code) E01 20. Event Number 4119293	21. Primary or Mill
22. Signature 7944 & Other	23. AR Number 24172
	iusiness Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has glonal Fairness Boards to receive comments from small businesses about federal agency is each agency's responsiveness to small business. If you wish to comment on the

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman end 10 Regional Fairness Boards to receive comments from small business about federal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSHA, you may call 1-886-REG-FAIR (1-888-784-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Mine Citation/Order Continuation	y				epartment of L afety and Health	abor Administration	8509	
Section I-Subsequent Action/Co	ntinûation Data			aran di bara				
1: Subsequent Action 1a. C		Dated (Original Issue)	Mo Da 08/03/20	Yr 09	3. Citation/ Order Number	8094552 - 01		•••
4. Served To RICK FOSTER (MIN	IE FOREMAN	2		5. Opera PERFO		AL COMPANY		
6. Mine UPPER BIG BRANCI	H MINE-SOUT	Ĭ		7. Mine	^D 46-0843	6	(Contractor)	(*
Section II-Justification for Action							versavaranisavvata ensavas	energen en e
THE AFRECTED A	REA HAS NO	W BEEN S	HIPPORTE	Ðs.		÷.	<u> </u>	

Section III-Subsequent Action Taker	<u>. </u>			Sea Continuation Form
B. Extended To A. Date Mo	Da Y	B. Time (24 Hr. Clock)	☐ C. Vacated	☑ D. Terminated ☐ E. Modified
Section IV-Inspection Data				
9. Type of Inspection E01	10	Event Number 411929	3	
11-Signature p	77+	AR Number	12 Date Mo Da Yr	13. Time (24 Hr. Clock)

£01000-VHS45-14-cr-00244 Document 311-4 Filed 08/18/15 Page 93 of 156 PageID #: 5740

Mine Citation/Order Continuation			partment of Labor afety and Health Adn		e 🚳
Section I-Subsequent Action/Cont 1. Subsequent Action 1a. Con		Mo Da Yr	3. Citation/		
	(Original Issue)		Order Number 809	4552 - 02	· · · · · · · · · · · · · · · · · · ·
4. Served To RICK FOSTER (MINI	FÖREMAN)	5. Opera PERFC	tor RMANCE COAL C	ÖMPÄNY	
6 Mine UPPER BIG BRANCH	MINE-SOUTH	7. Mine I	46-08436		(Contractor)
Section II—Justification for Action	and and the second of the seco		• * * * *******************************	on and an arranged a series of the series of	en i de partir de la compansión de la comp La compansión de la compa
Change	From		То	54	7 17.
10. D. Persons Affected	18		1.		
Reason CHANGE TO 1	PERSON AFFECTED.			•	

Section III-Subsequent Action Taken				s iz isomorphi	See Continuation Form
Section IV-Inspection Data 9. Type of Inspection E01 10. Event Number 4119293	8. Extended To Mo Do	**************************************	☐ C. Vacated	O. Terminated	
11 Signature 7 AR Number 12 Date Mo Da Yr 13. Time (24 Hr. Clock) 24172 08/05/2009 0533	Section IV-Inspection Data 9. Type of Inspection E01	en we we can as a			
	11 Signature 9	R Number 24172	08/05/2009	13. Time (24 Hr. Clock 0533)

OSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration	
III. ACHAI	25401	,
INE ID 46-08436 MSHA OFFICE	0.0401	<u></u>
MINENAME LAppor Big Branch - South	The state of the s	
COMPANY NAME PERFORMANCE COEF CO		
italion/Order No. 8090967 D	ate 9/24/09	
CCIDENT INFORMATION: Vas this violation associated with an accident which caused an injury? YES	NO 🕒 If yes: Falai? 🗌 No	on-fatal?
EVIEW CRITERIA: (Attach supplemental information if needed)		
. Did the condition or practice cited create the presence of a high degree of risk to the	health and/or safety of miners? Yes . No E	
a) Who was exposed to the hazard? (Name and Occupation)	•	
See a Hadel list 40 tatal Miners		1 st
b) How were they exposed to the hazard? By Not being trained of this way from five and smoke.	they were expand to increase	ansu
c) When and over what period of time did the exposure occur? $\frac{9}{1/07} \cdot \frac{9}{1}$	24/09 24 ma aday	,
**************************************	4 2110	5-1
d) Is this first hand information? Yes V No If not, who provided the information? (Name and Occupation)		عشاقت بنيادوات أب
Did the operator or agent have actual knowledge, or reason to know, of the facts or a) Who had this knowledge? (Name and Title) Exercise Hagor, SUP)
b) How was this knowledge evidenced? He should home known +		AWC
system had been activated on 9/1/09 but h	o training has been given to an	inner.
The state of the s		
c) Is this first hand information? Yes 🗹 No 🗌		
If not, who provided the information? (Name and Occupation)		
c) is this first hand information? Yes V No U If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:		
If not, who provided the information? (Name and Occupation)		
If not, who provided the information? (Name and Occupation)		
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION:		
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola	d .	Yes[] NoTP
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola	lion of the Act or mandalory health or safety standard?	Yes[] NoTB
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: 24300 Signature: William B. Supervisor: Do you agree with the Inspector's conclusion? Yes/D. No []	one Date: 9/5	Yes NoTE
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: 24309 Signature: Willful L	d .	yes() notB 4/07 29/09
If not, who provided the information? (Name and Occupation) NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: 1430 Signature: William B Supervisor: Do you agree with the Inspector's conclusion? Yes/II No [] Signature: William B	Date: 9/2	yes□ No™ 4/07 29/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: 24368 Signature: William B Supervisor: Do you agree with the Inspector's conclusion? Yes/ID No [] Signature: A Conduct a special investigation. C. No further action.	Date: 9/2	Yes[] NoTB 4/07 19/09
If not, who provided the information? (Name and Occupation) NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation. Inspector AR Number: 24300 Signature: Willful Signature: No Classification: Signature: No Classification: No Classification: A. Conduct a special investigation. Assistant District Manager: Recommendation: (A or C from the list above)	Date: 9/2	Yes□ No™ 4/07 19/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: 24368 Signature: William B Supervisor: Do you agree with the Inspector's conclusion? Yes/ID No [] Signature: A Conduct a special investigation. C. No further action.	Date: 9/2	yes No 19 4/07 29/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: VSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: 24300 Signature: Supervisor: Do you agree with the Inspector's conclusion? Yes/L No [] Signature: COSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above)	Date: 9/2 Date: 4/2 Date: 4/2	Yes No 19 4/07 9/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: 2 4368 Signature: William & Supervisor: Do you agree with the inspector's conclusion? Yes/The No [] Signature: C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature:	Date: 9/2 Date: 4/2 Date: 4/2	yes No B 4/07 19/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violating inspector AR Number: Supervisor: Do you agree with the Inspector's conclusion? Yest In No Inspectors: Signature: COSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: C. No further action. Assistant District Manager: Recommendation: C. A or C from the list above) Supervisory Special Investigator: Recommendation: C. A or C from the list above)	Date: 95 Date: 45 Date: 46 Date: 46	ves□ No™ 4/07 9/09 6/69 7/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation and the inspector of the inspector's conclusion? Yes/ID No ID Supervisor: Do you agree with the Inspector's conclusion? Yes/ID No ID Signature: COSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. ID C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature: District Manager: Action Decision: (A or C from the list above) Signature: District Manager: Action Decision: (A or C from the list above) Signature:	Date: 95 Date: 45 Date: 46 Date: 46	Yes No 12 4/07 19/09 1/09 1/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation and the inspector of the inspector's conclusion? Yes/ID No ID Supervisor: Do you agree with the Inspector's conclusion? Yes/ID No ID Signature: COSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. ID C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature: District Manager: Action Decision: (A or C from the list above) Signature: District Manager: Action Decision: (A or C from the list above) Signature:	Date: 9/2 Date: 4/2 Date: 4/2 Date: 4/2	Yes NOW 4/07 9/09 7/09 7/09 1/2057
If not, who provided the information? (Name and Occupation) Any other pertinent information: VSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: 24308 Signature: Supervisor: Do you agree with the Inspector's conclusion? Yes/1 No Signature: COSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature: Supervisory Special Investigator: Recommendation: (A or C from the list above) Signature: District Manager: Action Decision: (A or C from the list above) Signature:	Date: 9/2 Date: 4/2 Date: 4/2 Date: 4/2	Yes No 12 4/07 19/09 1/09 1/09 1/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in the provided in the provide	Date: 9/2 Date: 4/2 Date: 4/2 Date: 4/2	Yes NOW 4/07 9/09 1/09 1/09
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola Inspector AR Number: Supervisor: Do you agree with the Inspector's conclusion? Yes I No [] Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Supervisory Special Investigator: Recommendation: Supervisory Special Investigator: Recommendation: Signature: District Manager: Action Decision: A or C from the list above)	Date: 9/2 Date: 4/2 Date: 4/2 Date: 4/2	Yes[] Note 4/09 19/09 1/09 1/09 1/09

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Mine Citation/Order

U.S. Department of Labor Mine Safety and Health Administration

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I^{-}	•,	N	

				110110-034	ved citie i recon	es continuadados.	·	
Section I-Violat					· .			
1. Date:	Mo Da Yr	2. Time (24 Hr. Clo				3. Citation/ Order Number	80909)62
4. Served To	09/24/2009	094	3	5. Operato	i i	- Crock-Thistocr		
Everette H			•			AL COMPANY	7	
6. Mine	agar, orthr			7. Mine ID				
	G BRANCH M	INE-SOUTH		1. INTERIOR	46-0843	6		(Contractor)
8. Condition of					·		8a. Writte	n Notice (103g)
36 mi surface operato receive Charles Nelson, Price, Medley, Kenny W	ners are without ors are or the required Nick McC Gary Quar Steve Grimoodrum, D. Robert	working on receiving a dered with ired AMS to uke Ford, I rosky, Josl les, Dillation, Tomavid Shear, Hale, Gary	any AMS trawn unticaining De Randy Gwin Stout, Red Persing My Estep, Shannon Neil, Ron	aining. l a trainle lbert Bann, Roger lick Lane er, Rex loger Jeff Sich Bickens ald Will	The follo ning plan iley, Har Scarbro, Grover Mullins, kles, Kev	wing miner is approved the second Lilly Terrance Skeens, Du Dakota Dav in Brown, Cozart, Mi	worki s and ed and Jack I Adkins stin I is, Ke Mike V ke Med	ing on the AMS I they Roles, Travis Ross, Jöel evin Vebb,
Chuck 3	mith, Ada	m Jenkins,	Charite o	ustice.				
			•	•		See Configuration	in Corre MACE	(A.Form 7000-3a)
9. Violation	A. Health ☐ Safety ☐ Other ✔	B. Section of Act	- The state of the	C: Part/Section Title 30 CFR		75.350(b)(w.roosee W.
Section II-Inspe	ector's Evaluation							
10. Gravity:	Maagan Comman (2004)	National Action (Action)	(e. 10	·	Later and the Control	data di se a mesar di Propi	eric ita e cons	or on the officer
		No Likelihood ☐	Unlikely 🗌	Keasonab	ly Likely 🔽	Highly Likely	Occur	med 🗌
	r iliness could rea- be expected to be:	No Lost Workda	iys 🗌 Losi V	Vorkdays Or Rest	ricted Duty [Permanently Disa	abling 🔽	Falal [
C. Signific	ant and Substantial	Yes 🗸	No 🏻			D. Number of Perso	ons Affected	040
11. Negligeno	ce (check one)	A. None	B. Low 🔲	C. Moderate 🔲	D. High	Z E. Reck	less Disreg	and [
12. Type of A	ction 104(g)(1)	13. Type of Issu	iance (check one) Citation [Order ☑ Safe	guard []	Written Notice 🗌
14. Initial Act A, Citation	lon B. Order	C. Safeguard ☐ I	D. Written Notice [E Citation			F. Dated	Mo Da Yr
15. Area or E	quipment Del	bert Baile	v. Harold	Lilly Ja	ck Roles.	Charles D	avis.	Luke
	Randy Gwin	n, Roger S tout, Rick	carbro, Te	rrance A	dkins, Tr	avis Nelso	n, Nic	:k
16. Terminali	on Due A. Date	Mo Da Yr	B. Time (24 Hr. Clo	ck)				
Section III-Ten	mination Action	<u>-</u>						
17. Action to	Terminate					ž		
18. Terminal	ed A. Date Mo	Oa Yf B. Time	(24.Hr. Clock					
	omaled System Data							
19. Type of li (activity o		20. Event Number	411929	3 21.4	Primary or Mill			
22. Signature	Willian	Sauce	***************************************		HERMAN AND AND AND AND AND AND AND AND AND A	23. AR Numb	er 24	308
MSHA Form 70	00.3 (Apr 08 (revised)					airness Act of 1996, the		

MSHA Form 7000-3 Apr. 98 (revised). In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small business about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd. Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to tile a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

901000-VHSUS-14-cr-00244 Document 311-4 Filed 08/18/15 Page 96 of 156 PageID #: 57 Mine Citation/Order U.S. Department of Labor Continuation Mine Safety and Health Administration Section I-Subsequent Action/Continuation Data 3. Citation/ 1. Subsequent Action 1a. Continuation 2. Dated Mo Da Order Number 8090962 (Original Issue) 09/24/2009 4. Served To PERFORMANCE COAL COMPANY Everette Hagar, Supt. 7. Mine ID 6. Mine (Contractor) 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II-Justification for Action Continuation of 15. Area or Equipment Gary Quarles, Dillard Persinger, Rex Mullins, Dakota Davis, Kevin Medley, Steve Gration, Tommy Estep, Jeff Sickles, Kevin Brown, Mike Webb, Kenny Woodrum, David Shears, Shannon Dickens, Kelton Cozart, Mike Medley, Greg Meadows, Robert Hale, Gary Neil, Ronald Williams, Pacer Pettry, Greg Clay, Chuck Smith, Adam Jenkins, Charlie Justice. See Continuation Form

Section III-Subsequent Action Taken 8. Extended To C. Vacated A. Date B. Time (24 Hr. Clock) D. Terminated E. Modified Section IV-Inspection Data 9. Type of Inspection 10. Event Number 4119293 13. Time (24 Hr. Clock) AR Number 12. Date Mo Da Yr 11. Signature 24308 09/24/2009 0945

MSHA Form 7000-3a, Mar 85 (revised)

401000-VHSM:-14:14-cr-00244 Document 311-4 Filed 08/18/15 Page 97 of 156 PageID #: 5744

"ne Citation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration			9/29/9		
Section I-Subsequent Action/Continuation Data				1 11110		
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da Y 09/24/2009	r 3. Citation/ Order Number	8090962 - 01		
4. Served To		5. O	perator			97.5
Everette Hagar, Supt.		PEI	RFORMANCE CO	AL COMPANY		uni tertit
6. Mine UPPER BIG BRANCH MINE-SO	JUTH	7. M	ine ID 46-0843	6	(Contractor)	
Section II Justification for Action		ar green than				

The miners have received AMS training.

	. r				See Continuation Form
Section III-Subsequent Action Taken			a para de ter	apriles services	
8) Extended To A. Date Mo Da Yr B. T	ime (24 Hr. Clock)		C. Vacaled	☑ D. Terminated	☐ E. Modified
Section IV-Inspection Data					
9. Type of inspection EQ1 10, Event 1	Number 4119293				
11. Signature Willon Ball	AR Number 24308	12. Date	Mo Da Yr 09/28/2009	13. Time (24 Hr. Cloc 1030	X)
MSHA-Form 7000-3a, Mar 85 (revised)					

Mine Citation/Order Continuation Section I—Subsequent Action/Continuation Da	FA.	U.S. Department of Labo Mine Safety and Health A	
Subsequent Action 1a. Continuation		Da Yr 3 Citation/ 2009 Order Number 80	190962 - 02
4. Served To Eyerette Hagar, Supt.		5. Operator PERFORMANCE COAL	COMPANY
6. Mine UPPER BIG BRANCH MINE- Section II-Justification for Action	SOUTH	7, Mine ID 46-08436	(Contractor)
	From	Те	
Reason Add the sentence" The mine until they receive the		I hazard to their selves and other	s and are to be withdrawn from th
15 Area or Equipment	· · · · · · · · · · · · · · · · · · ·	· .	÷
Reason Add the sentence, " The	miners named are withdrawn fro	m the mine and prohibited from	performing any duties."
	4		
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		· · · · · · · · · · · · · · · · · · ·	
•			e e e e e e e e e e e e e e e e e e e
			See Continuation Fe
Section III-Subsequent Action Taken 8, Extended To Mo Da	Y 5: -80: 200 200 40 000 000		
A. Date	B. Time (24 Hr. Glock)	C Vacated [D. Terminated E. Modified
Section IV-Inspection Data 9. Type of Inspection E01	e Event Number 4119293		

MSHA Form 7000-3a, Mar 85 (revised)

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



A de la companya del companya de la companya del companya de la co	
MINE ID 46 -08436 MSHA OFFICE 284	70 /
MINENAME Upper Big Branch Mine-South	A CONTRACTOR OF THE PROPERTY O
COMPANY NAME Performance Cent Company	
Citation/Order No	5/2009
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO	If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	- J. T. C.
Did the condition or practice cited create the presence of a high degree of risk to the health and/or safet Who was exposed to the hazard? (Name and Occupation)	
b) How were they exposed to the hazard? They were TN the Oir Co BANDY TOWN FAN provides Ventilation for.	urses that the
c) When and over what period of time did the exposure occur? At a Minimum of	F 6 hours, from 2100A
d) Is this first hand information? Yes No Y If not, who provided the information? (Name and Occupation)//// Laughery, 3	Shiff Maint Foremore
Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constitut Who had this knowledge? (Name and Title)	ing the violation? Yes No
b) How was this knowledge evidenced? The fau alorm 15 on an alote Outside phone lines one down.	choke and the
c) Is this first hand information? Yes No III	
3. Any other pertinent information: It was apparent that wa	ellert had been
Made by the operator to place Someour Monitor It until phone Service was I	e at the form to
INSPECTOR'S CONCLUSION:	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or many	and the second of the second o
Inspector AR Number: 24576 Signature: Chomes L. Clus	Date: 9-17-04
Supervisor: Oo you agree with the inspector's conclusion? Yes No U	Date: 9/29/9
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action.	
Assistant District Manager Recommendation: (A or C from the list above)	
Signature: Such & Such S	Date: 10/6/69
Supervisory Special Investigator: Recommendation: (A or C from the list above) Signature:	Date: 10/1/04
District Manager Action Decision: A or Coron the list above) Signature:	Date: KS/2/12/5
ADDITIONAL COMMENTS OR REMARKS: The 1 of the	a part margart
the criteria for further 1	esiero.
f. I	
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	ID No

000-AHS	₩ē)244 Documer	nt 311-4 F	iled 08/18/1	.5 Page	100 of 15	i6 PageID #	1. 5747
Mine Cita	lion/Order				rtment of L ty and Healt		ation	4/1811 []
Section I-Viol	lation Data	A CONTRACTOR OF THE CONTRACTOR					er ner	
1. Date	Mo Då Yr 09/1 <i>5/2</i> 009	2. Time (24 Hr. Clock) 0820				3. Citation/ Order N		180
4, Served To Everette I	o Hagar, Mine Supt	*		5. Operator PERFORI	MANCE CO	AL COMF	ANY	
6. Mine	IG BRANCH MI			7. Mine ID	46-0843	6	and the second	(Contractor)
8. Condition	or Practice						8a. Writte	n Notice (103g)
outage stoppa	and the fage occurs.	for the Band an is not be The phone ing to midni	ing monit lines hav	ored to p	notify t	his mir	e if an	fan
		, ,		•	· · ·			•
			·			•	•	**
		÷.				· Ø		
9, Violation		B. Section		C. Part/Section of	94. ×8.87		linuation Form (MSF	(A Form 7000-3a)
Postion II Jan	Safety 1/2 Other Declor's Evaluation	of Act		Title 30 CFR		75.31	0(a)(3)	V-1
10. Gravity:	1.00				*			
A. Injury	or Iliness (has) (is):	No Likelihood [Unlikely []	Reasonably I	ikely 🗸	Highly Likely	Оссы	rred 🔲
sonab	or iliness could rea- ly be expected to be:	No Lost Workdays	☐ LostWo	orkdays Or Restric	ted Duty [ily Disabling 🔲	Fatal 🗸
* 1 * 1 * 1 * 1 * 1	icant and Substantial	Yes ☑ No	Ù	<u> </u>		- COLUMN TO	Persons Affected	i: 037
(************************************	TERROR CONTRACTOR CONT	and the second s		. Moderate ✓	D. High	*	Reckless Disreg	
12. Type of	Action 104(a)		13. Type of Issua	tangkan perangkan	Citation 🔽	Order 🗌	Safeguard [Written Notice [
14. Initial Ac A. Citation	ction n B. Order	C. Saleguard [] D. V	Viitten Notice	E Citation/ Order Num	ber "		F. Dated	Mo Da Yr
15. Area or	Equipment					<i>*</i>		
16. Termina	A. Date	Mo Da Yr 09/15/2009 B.1	ime (24 Hr. Cloc	0900			AT .	
17. Action to	e Terminate A relications to	esponsible pothis mine restored.						10

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-988-REG-FAIR (1-988-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

0850

21, Primary or Mill

23. AR Number

24516

Mo Da Yr

09/15/2009

E02

20, Event Number

B. Time (24 Hr. Clock

4123487

18. Terminated

A. Date

Section IV-Automated System Data

19. Type of Inspection

(activity code) 22. Signature

III 000-VHSW-4-14-cr-00244 Document 311-4 Filed 08/18/15 Page 101 of 156 PageID #: 5748 Mine Citation/Order U.S. Department of Labor Continuation Mine Safety and Health Administration Section I-Subsequent Action/Continuation Data 3. Citation/ Order Number 8086180 - 01 1. Subsequent Action 1a. Continuation 2. Dated Mo (Original Issue) 09/15/2009 4. Served To 5. Operator PERFORMANCE COAL COMPANY Everette Hagar, Mine Supt. 6. Mine 7. Wine ID (Contractor) 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II-Justification for Action Change From To 8. Condition Or Practice Reason The first word of the first sentence in this citation should be "The". Wrong word entered. See Continuation Form Section III-Subsequent Action Taken 8. Extended To Yr Da A. Date C. Vacated D. Terminated B. Time (24 Hr. Clock) ✓ E. Modified Section IV-Inspection Data 9. Type of Inspection E02 10, Event Number 4123487

AR Number

12. Date

Mo Da

Υï

09/15/2009

13, Time (24 Hr, Clock)

1500

MSHA Form 7000-3a, Mar 65 (revised)

11. Signature

Ine Gitation/Grder			Department of Lat Safety and Health /		Alapute
ection i-Subsequent Action/O Subsequent Action 1a. (Mo Da Yr ssue) 09/15/2009	3. Citation/ Order Number 8	3086180 - 02	
Served To	· · · · · · · · · · · · · · · · · · ·	5. Op			*
verette Hagar, Mine Mine	Supt.	PER 7. Min	PÓRMANCE COA	L COMPANY	(Contractor)
PPER BIG BRANC	H MINE-SOUTH	1.5 18(6)	46-08436	:	(Contractor)
ection 11-Justification for Actio				•	
hange	From		To	- "	
1. Negligence	Moderate	·	High	.61	
leason The operator	waited for at least six hours	to post an individual at t	he fan.	· -	
2. Type of Action1	I04(a)		104(d)(2)	•	
leason Affer further	eview of the situation and a	ı discussion with my sup	ervisor, I feel the mod	ification is justified	L
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		Programme and the second	•		
<i>5</i>					See Continuation Form
ection (II-Subsequent Action					· · · · · · · · · · · · · · · · · · ·
Extended To A. Date	Mo Da Yr B. Time (24	Hr. Glock)	C. Vacated	D. Terminated	☑ E. Modified
sciron IV-Inspection Data					
Type of inspection 440	2EO 1 10. Event Number	4123487- 41192	193		
· · · · · · · · · · · · · · · · · · ·	5. * - *-	111 10	er i i series Production		

MSHA Form 7000-3a, Mar 85 (revised)

E11000-VHSWed 14-cr-00244 Document 311-4 Filed 08/18/15 Page 103 of 156 PageID #: 5750 U.S. Department of Labor Mine Citation/Order Mine Safety and Health Administration Continuation Section I Subsequent Action/Continuation Data 3, Citation/ 2. Dated Mo 1. Subsequent Action 1a. Continuation örder Number 8086180 - 03 (Original Issue) 09/15/2009 V Operator 4. Served To PERFORMANCE COAL COMPANY Everette Hagar, Mine Supt. 7. Mine ID (Contractor) 6. Mine 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II-Justification for Action To Change From 13. Type of Issuance Citation Order Reason Citation changed to an order Citation 14. Initial Action Reason 14. E. Citation/Order Number 8074834 Reason Additional information is needed for this order. 14. F. Initial Action Dated 03/17/2009 Reason Additional information needed 15. Area or Equipment Reason The No.1, No.2, and Longwall sections, as well as all belts and outby areas ventilated by the Bandy Town fan are affected. 16. A. Termination Due Date 09/15/2009 Reason 16. B. Termination Due Time 09:00 Reason

			- 1. 1. 100 a. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.		3:		See Continuation Form
Section III-Subseq	uent Action Taker	r.		91.7 (1. 1479) 11. 14. 14. 14. 14. 14. 14. 14. 14. 14.	alle MVV as		
8. Extended To	A. Date Mo	Da Yr	B. Time (24 Hr. Clock)		C. Vecaled	D, Terminated	☑ E. Modified
Section IV-Inspect	lion Dala						
9. Type of Inspe	cflon B02 ϵ	ပျ ^{10.}	Event Number 4123487	4119293			· · · · · · · · · · · · · · · · · · ·
11. Signatur	\overline{a}	OL	AR Number			13. Time (24 Hr. Clo	ock)
_ Un	Those C.	Chia.	24516	09.	/23/2009	1340	

*IIOOO-VHSAN-14-cr-00244 Document 311-4 Filed 08/18/15 Page 104 of 156 PageID #: 5751

/6 Citation/Order Continuation		U.S. Department of Labor Mine Safety and Health Administration	10/1/1/101/10
Section I-Subsequent Action/Continuation Da	ifa		
1. Subsequent Action (a. Continuation	2. Dated Mo (Original Issue) 09/14	Da Yr 3. Citation/ 5/2009 Corder Number 8086180 - 04	
4. Served To		5. Operator	The second secon
Everette Hagar, Mine Supt.		PERFORMANCE COAL COMPANY	
6. Mine		7. Mine ID	(Contractor)
UPPER BIG BRANCH MINE-	SOUTH	46-08436	
Section Il-Justification for Action			
Change	From	To	
14. Initial Action		Order	
Reason Corrected information no	eded		•
14. E. Citetion/Order Number		8082692	
Reason			

Section III-Subsequent Action Taken			See Continuation Form
8, Extended To A. Date Mo Da	Yr B. Time (24 Hr. Glock)	C: Vacated D. Terminated	⊘ E Modified
Section IV-Inspection Data 9. Type of Inspection Ti02	10. Event Number 9832268		
11. Stimature C.C	Dav 24516 12 Date	s: Mo Da Yr 13; Time (24 Hr. C 10/01/2009: 1230	- 0.50 p

WSHA Form 7000-3a, Mar 85 (revised)

FII000-VIISWet-14-cr-00244 Document 311-4 Filed 08/18/15 Page 105 of 156 PageID #. 5752

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 408436 MSHA OFFICE O	the contract of the contract o
MOTA OFFICE CZ	401
MINENAME Upper Big Branch Min	e-South
COMPANY NAME PERFORMANCE COGICO	magny
Citation/Order No. 8094607 Date 1	9-73-09
· ·	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO L If yes, Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
 Did the condition or practice cited create the presence of a high degree of risk to the health 	n and/or safety of miners? Yes \(\) No \(\frac{\text{Ves}}{2} \)
a) Who was exposed to the hazard? (Name and Occupation)	
Non E b) How were they exposed to the hazard?	
Record Violation	
c) When and over what period of time did the exposure occur?	
WAr after start of shift	t
d) is this first hand information? Yes [X] No [] If not, who provided the information? (Name and Occupation).	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or condit a) Who had this knowledge? (Name and Title) 5 1 E Va Colo C	lions constituting the violation? Yes⊠ No□ Fore AVG(1)
b) How was this knowledge evidenced? Mr. Colo 5+a+ed.	hedid not Know 1
If not, who provided the information? (Name and Occupation): 3. Any other pertinent information:	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of	the Act or mandatory health or safety standard? Yes□ No 🗷
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2417 Z Signature:	the Act or mandatory health or safety standard? Yes□ No 🗷
Based on this review, does this appear to be a possible knowing and/or willful violation of	The Act or mandatory health or safety standard? Yes No. 1000
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2417 7 Signature: 6	the Act or mandatory health or safety standard? Yes No. 18. Othor Date: 9-23-09 Date: 9/29-09
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 17 7 Signature: 0 0 5 Supervisor: Do you agree with the inspector of onclusion? Yest No 17 Signature: 2 2 2 3 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4	Other Date: 9-23-00
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 0 0 5 Supervisor: Do you agree with the inspectors conclusion? Yest, No. 1 Signature: 2 COO Sign	Other Date: 9-23-00
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 0 0 No Signature: No Signa	athey Date: 9-23-00
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: Supervisor: Do you agree with the inspector of onclusion? Yes No. Signature: Possible recommendation: C. No further action. Assistant District Manager: Recommendation: C. (A or C from the list above) Signature:	Date: 10/6/69
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 0 0 No Signature: No Signa	Date: 10/6/69
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 6.0.5 Supervisor: Do you agree with the inspector of inclusion? Yes 1, No 1 Signature: 6.0.5 POSSIBLE RECOMMENDED ACTIONS: 6.0 No further action. 6.1 Assistant District Manager: Recommendation: 6.1 (A or C from the list above) Signature: 6.1 Supervisory Special Investigator: Recommendation: 6.1 (A or C from the list above) Signature: 6.1	Date: 10/6/69
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 1 7 Signature: 0 0 0 Supervisor. Do you agree with the inspector's conclusion? Yes No. 1 No. 1 Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature: Supervisory Special Investigator: Recommendation: (A or C from the list above)	Date: 10/6/69
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 0 0 Supervisor: Do you agree with the inspectors of inclusion? Yes No Description: No Descri	Date: 10/6/69
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 0 0 0 Supervisor: Do you agree with the inspector's conclusion? Yes No. 1 Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above) Signature: C. No further action. Assistant District Manager: Recommendation: Signature: C. No further action. Signature: C. No further action. Assistant District Manager: Action Decisiony (A or C from the list above) Signature: C. No further action. Signature: C. No further action. Assistant District Manager: Action Decisiony (A or C from the list above) Signature: C. No further action. Signature: C. No further action. Signature: C. No further action. Assistant District Manager: Action Decisiony (A or C from the list above) Signature: C. No further action. Signature:	Date: 10/6/64
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 0.0 Supervisor: Do you agree with the inspector ponclusion? Yes No. 1 Signature: 1 O	Date: 10/6/69
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 0.0 Supervisor: Do you agree with the inspector ponclusion? Yes No. 1 Signature: 1 O	Date: 10/6/69
Based on this review, does this appear to be a possible knowing and/or willful violation of Inspector AR Number: 2 1 7 Signature: 2 2 2 5 Supervisor: Do you agree with the inspector's conclusion? Yes No. 1 Signature: 2 C. No further action. 2 Assistant District Manager: Recommendation: (A or C from the list above) Signature: 2 C. No further action. 2 Supervisory Special Investigator: Recommendation: (A or C from the list above) Signature: (A or C from the list above)	Date: 10/6/69

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Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr, Clock)	3. Citation/ Order Number 8094607
09/23/2009 1855 4. Served To	5. Operator
STEVE COLO (FOREMAN)	PERFORMANCE COAL COMPANY
6. Mine	7. Mine ID 46-08436
UPPER BIG BRANCH MINE-SOUTH	Contractor
8. Condition of Practice	8a. Willen Nolice (103g)
THE OPERATOR HAS FAILED TO CERTIFY BY EXAMINATION (DUST PARAMETERS) FOR 9/2:	
PRUNITABLION INDEA THINGS IN SAN	7700 Biggatto Date I mad Table.
	en e
	$\mathbf{r} = \mathbf{r} \cdot \mathbf{r}$ (2)
•	See Continuation Form (MSHA Form 7000-3a)
9. Violation A. Flealth: B. Section C Safety Of Act Other:	Part/Section of Title 30 GFR 75.362(g)(2)
Section II-Inspector's Evaluation	
10. Gravity:	
A. Injury or Illness (has) (is): No Likelihood 🗸 Unlikely 🗌	Reasonably Likely Highly Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays V Lost Workdays	kdays Or Restricted Duty Permanently Disabling Fatal
C, Significant and Substantial: Yes No V	D. Number of Persons Affected: 000
11. Negligence (check one) A. None 🗌 B. Low 📗 C.	Moderate D. High V E. Reckless Disregard
12. Type of Action 104(d)(2) 13. Type of Issuan	ce (check one) Citation ☐ Order ☑ Safeguard ☐ Written Notice ☐
14. Initial Action A. Cifation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15 Area or Equipment THE #3 SECTION.	
16. Termination Due A. Date Mo Da Yr B. Time (24-Hr. Clock)	
Section III-Termination Action	
17. Action to Terminate THE OPERATOR IS NOW CERTI	FYING THE EXAMS.
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) Section IV—Automated System Data	2230
19. Type of Inspection (activity code) E01 20. Event Number 4119293	21. Primary or Mill
22. Signature Overy Sathey	23. AR Number 24172
MSHA-Form 7000-3, Apr 08 (revised) in accordance with the provisions of the Small	Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has

MSIA Form 7000-3, Apr. 08 (refvised) in accordance with the provisions of the Small Business Regulatory Enforcement Fainness. Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about rederal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSIA, you may call 1888-REG-FAIR (1886-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW. MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to confest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Section 1-Subsequent Action/Continuation 1. Subsequent Action 1a. Continuation 2. Dated (Origin 4. Served To EVERETT HAGER (SUPER) 6. Mine UPPER BIG BRANCH MINE-SOUTH Section 11-Justification for Action Change From 8. Condition Or Practice Reason THE OPERATOR HAS FAILED TO PARAMETERS) FOR 9/23/09 EVEN CONDUCT CONSTITUTING MORI CONDUCTED THE PARAMETER OF WITH A MANDATORY STANDAR	CERTIFY BY HING SHIFT W E THAN ORDI CHBCKS, THIS	/ DATE VAS M/ INARY	5. Opera PERFC 7. Mine I 7. Mine I Mine I Mine I Mine I Mine I Mine I	To AND INITHE OPERA	E COAI 08436 CLAUS T. TOR EN	HAT THE IGAGED I CENTIFYII	NY EXAMI N AGGI NG THY	RAVATED AT HE HAI	DUST
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8. Condition Or Practice Reason THE OPERATOR HAS FAILED TO PARAMETERS) FOR 9/23/09 EVEN CONDUCT CONSTITUTING MORI CONDUCTED THE PARAMETER CONDUCTED THE PARAMETER CONTRACTOR OF THE PARAMETER CONTRAC	ING SHIFT W E THAN ORDI CHECKS, THIS	VAS M. INARY	ADE, ȚI NEGLI	, AND INIT HE OPERA' IGENCE B'	TOR EN	IGAGED I CERTIFYII	N AGGI NG THA	RAVATED AT HE HAI)
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The second secon	1,	<u> </u>					and the m	See Continual	ion Form
Section III-Subsequent Action Taken.			,	er e		errijani ve niv z	بردن کی دوران بروران دران ایران ا		
8. Extended To A. Date Mo Da Yr B. Time (24 Hr. Glock)			☐ C. Va	acated	🗌 D. Termi	nated	E. Modifi	eď
Section IV-Inspection Data					<u> </u>		:		- Service
9. Type of Inspection E01 10. Event Numb	per 411929)3			نادرون بارجاد ن	<u> </u>			

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



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MINE ID 460 8436 MSHA OFFICE 040	
MINENAME Upper Big Branch Mine - South	
COMPANY NAME Performance Coal Company	
Citation/Order No. 8094603 Date 9-23-09	
Signification (10)	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO If yes:	Falal? Non-falal?
REVIEW CRITERIA: (Attach supplemental information if needed)	jum.
a) Who was exposed to the hazard? (Name and Occupation)	es 🗌 No 🔀
Steve Colo Foreman Shown Ellison 5/C Donnies	under 5/c
b) How were they exposed to the hazard? Parameter checks on the C/	m were
c) When and over what period of time did the exposure occur? () hr while mining	
d) Is this first hand information? Yes X No [] If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the violation a) Who had this knowledge? (Name and Title) STEDE COLO (FOREMON)	
b) How was this knowledge evidenced? Mr. Colo. Should have bee!	n trained
c) Is this first hand information? Yes No	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory health or	or safety standard? Yes⊡ No ⊠
Inspector AR Number: 24172 Signature Our E Other	Date: 9-23-09
Supervisor: Do you agree with the inspector's conclusion? West No. Signature:	Date: 9/29/09
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation. C. No further action. Assistant District Manager: Recommendation: (A or C from the list above)	
Signature: Assistant District Manager: Recommendation: A server of the list above	Date: 10/6/09
Supervisory Special Investigator Recommendation (A or Grom the list above) Signature:	Date: 10/7/20
District Manager: (ctiony Decision: A (A or Ofrom the list above) Signature:	Date:/// /2 /2.09
ADDITIONAL COMMENTS OR REMARKS: This Defet was	of meet
the criteria for a 110 investigation	
CASE ASSIGNMENT INFORMATION:	
Investigation Case No Date Assignment	ekhet
	ined
Investigator Assigned ID No.	Bernett and the second

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2, Time (24 Hr. Clock) 09/23/2009 1930	3. Citation/ Order Number 8094603
4. Served To	5. Operator
STEVE COLO (FOREMAN)	PERFORMANCE COAL COMPANY
5. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436
3. Condition or Practice:	(Contra 8a. Written Notice (103g
THE OPERATOR FAILED TO CONDUCT A COMPI WITH THE RESPIRABLE DUST CONTROL PARAM CONTROL PLAN FOR THE MMU-064 SECTION.	the control of the co
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	·
and the second s	See Continuation Form (MSHA Form 7000-3a)
Safety of Act Other	Part/Section of Title 30 CFR 75.362(a)(2)
Section II-Inspector's Evaluation	
0. Gravity: A, Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐	Reasonably Likely Highly Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Work	kdays Or Restricted Duty [Permanently Disabling V Fatal [
C. Significant and Substantial: Yes V No	D. Number of Persons Affected: 004
	Moderate ☐ D. High ☑ E. Reckless Disregard ☐
2. Type of Action 104(d)(2) 13. Type of Issuance	
4. Initial Action A. Cifation B. Order C. Safeguard D. Written Notice	E. Citation/ 8082692 F. Dated Mo Da Y Order Number 8082692
5. Area or Equipment THE MMU-064 SECTION.	
6. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
ection III—Termination Action	
	E EXAMINATION OF THE CONTINUOUS MINING
7. Action to Terminate THE OPERATOR FINISHED THE NACHINE.	

MSHA Form 7000-3, Apr 08 (revise) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enfoncement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888 REG-FAIR (1-986-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 and Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed panallies and obtain a hearing before the Federal Mine Safety and Health Review Commission:

23. AR Number

24172

22. Signature

Continua	27.1.2 Z	X				partment of La fety and Health	bor Administration	3/28/1
1. Subseq ☑	uent Action 1	on/Continuation Dat a. Continuation	2. Dated (Original Issue)	Mo Da 09/23/20	009		8094603 - 01	
4. Served		R (SUPER)			5. Operati		AL COMPANY	
6. Mine		pressure with the			7. Mine ID			(Confractor)
	BIG BRAN	NCH MINE-S	OUTH			46-08430		
Change	asonoadan lai 2		rom	<u> </u>		To		
	in Or Practice	V	16 mg + 16.			:		
Reason	RESPIRAI MMU-064 ORDINAR PARAME	BLE DUST CO SECTION. M. RY NEGLIGEN TER CHECKS	ED TO CONDUCT A INTROL PARAMET ANAGEMENT BNG ICE IN THAT PROC ON THE CONTINU WITH A MANDAT	ERS SPECI AGED IN A JUCTION W JOUS MIND	FIED IN T GGRAVA VAS DEEN VG MACI	THE METHANE TED CONDUC MED MORE IM	DUST CONTROL T CONSTITUTING PORTANT THAN	PLAN FOR THE MORE THAN CONDUCTING
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Section III-1						4"		
Section III-3		Mo Da 🤾	B. Time (24 Hr. Clo	ck)	1	C. Vacated	□ D. Terminated	E. Modified
8. Extende	ministrative and state and	e 1	B. Time (24 Hr. Clo	ck)		C. Vacated	O. Terminated	☑ E. Modified

MSHA Form 7000-3a, Mar 85 (revised)

171000-VISUSE 14-cr-00244 Document 311-4 Filed 08/18/15 Page 111 of 156 PageID #: 5758

Confidential, Pre-decisional information)	Mine Safety and Health Administration	
IINE ID 4608436 MSHA OFFICE	0401	
	500th	المراكب المراكب المراكب
OMPANYNAME Performace coal com.	pany	
itation/Order No. 8094 604 D	9-23-09	
GCIDENT INFORMATION: Vas-this violation associated with an accident which caused an injury? YES	NO 🗵 If yes: Fatal? 🗌 No	on-fatál? 🗀
EVIEW CRITERIA: (Atlach supplemental information if needed)	,	
Did the condition or practice cited create the presence of a high degree of risk to the a). Who was exposed to the hazard? (Name and Occupation)		ÿ.
Steve Colo (Foreman) Shawn Ellis. b) How were they exposed to the hazard? Parameter chec The C/M.	Ks were not don	e 01
c) When and over what period of time did the exposure occur? (b) hr w	thile mining a cu	ł
d) Is this first hand information? Yes 2 No		
Did the operator or agent have actual knowledge, or reason to know, of the facts or a) Who had this knowledge? (Name and Tille) Steve Calo F	conditions constituting the violation? Yes $oldsymbol{oldsymbol{\boxtimes}}$ No $oldsymbol{oldsymbol{\square}}$]
b) How was this knowledge evidenced? Mr. Colo Should On these thecks	Lhave been train	ec/_
c) Is this first hand information? Yes No 🗌		
(find, who provided the information? (Name and Occupation)		
If not, who provided the information? (Name and Occupation) . Any other pertinent information:		
If not, who provided the information? (Name and Occupation) . Any other pertinent information: WSPECTOR'S CONCLUSION:	ion of the Act or mandatory health or safety standard?	Yes⊟ No.
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: 2 4/1/7 Z Signature: 1 44 2	ion of the Act or mandatory health or safety standard? Outling -2	. 4
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola		
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: 2 4/17 Z Signature: 2 Supervisor: Do you aggree with the hispector's candiusion? Yes IZ Nov Signature:	Date: 9/2	
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you aggre with the happetor's candusion? Yes III No Conclusion: Signature: OSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation.	Date: 9/2	. ,
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you agree with the hispector's candiusion? Yes ID No Consistence: Signature: OSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation.	Date: 9/2	
If not, who provided the information? (Name and Occupation) Any other pertinent information: ISPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: 2 4/17 Z Signature: Supervisor: Do you aggre with the inspector's conclusion? Yes IR Nov C Signature: OSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation: C No further action. Assistant District Manager: Recommendation: (A or C from the list above)	Date: 40/	
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you aggre with the happetor's canglusion? Yes III No Signature: OSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation; (A or C from the list above) Signature:	Date: 40/	
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you aggre with the hispector's conclusion? Yes IR North Signature: OSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: (A or C from the list above) Signature: Supervisory Special investigator: Recommendation: (A or C from the list all	Date: 40/	
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes IZ No Conclusion: Signature: OSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special investigator: Recommendation: Supervisory Special investigator: Recommendation: Signature: District Manager: Adign Decision: A or C from the list above) Signature:	Date: 40/ Date: 40/ Date: 40/	
If not, who provided the information? (Name and Occupation) Any other pertinent information:	Date: 40/ Date: 40/ Date: 40/	
If not, who provided the information? (Name and Occupation) Any other pertinent information: USPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violationspector AR Number: 2 / 1 / 7 Z Signature: 2 / 3 Supervisor: Do you aggre with the Inspector's canclusion? Yes Yes	Date: 40/ Date: 40/ Date: 40/	
Section Sect	Date: 40/ Date: 40/ Date: 40/	

WHITE: SPECIAL INVESTIGATOR

Mine Citation/Order		nent 311-4 File	U.S. Departr	ment of Labor and Health Admi	91	29/91114 3
Section I-Violation Data :	and the second of the second o					
1. Date - Mo Da Yr 09/23/2009	2. Time (24 Hr. 0 19			3. Cit On	ation/ der Number 8094	604
4. Served To STEVE COLO (FOREM	IAN)		5. Operator PERFORMA	ANCE COAL CO	OMPANY	
6. Mine			7. Mine ID	46-08436	i i	
UPPER BIG BRANCH M	INE-SOUTH			to boaso		(Contractor
8. Condition of Practice THE OPERATOR FAI	TEN WA GOV	IDUCT A COMPI	TODGE DISCONAT	MARITON NO	ASSURE COMP	en Notice (103g)
WITH THE RESPIRA CONTROL PLAN FOR	BLE DUST (CONTROL PARAM	for a second second		THE METHANE	
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				Š€	e Continuation Form (MSI	HA Form 7000-3a)
9. Violation A. Health V Safety Other	B. Section of Act	ļ¢	. Part/Section of Title 30 CFR		se Continuation Form (MSI	HA Förm 7000-3a)
Säfety Other Section II-Inspector's Evaluation		E			The same state of the same	HA Form 7000-3a)
Safety Other				7	5.362(a)(2)	HA Form 7000-3a)
Safety Other Section II—Inspector's Evaluation	of Act No Likelihood	Cinlikely 🗌	Title 30 CFR	7. ely: ☑ Highly I	5.362(a)(2)	
Safety Other Section II-Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): B. Injury or illness could rea-	of Act No Likelihood □ No Lost Work	Cinlikely 🗌	Title 30 CFR	7 ely	5.362(a)(2)	rred [
Safety Other Section II-Inspector's Evaluation 10. Gravity: A. Injury or Illness (thas) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia	No Likelihood No Lost Work	Unlikely days: LostWorl	Title 30 CFR	7 ely	5.362(a)(2) Likely □ Occu	rred [] Fatal [] d: 004
Safety Other Section II-inspector's Evaluation 10. Gravity: A. injury or illness (has) (is): B. Injury or illness could reasonably be expected to be	No Likelihood No Lost Work Yes A: None	Unlikely days: LostWorl	Title 30 CFR Reasonably Like kdays Or Restricted Moderate	7. ely	5.362(a)(2) Likely Occurrently Disabling ber of Persons Affected E. Reckless Disreg	Fatel Fatel d: 004
Safety Other Section II-Inspectors Evaluation 10. Gravity: A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia 11. Negligence (check one) 12. Type of Action 104(d)(1)	No Likelihood No Lost Work Yes A: None 2)	Unlikely days LostWorl No B. Low C. 1	Title 30 CFR Reasonably Like kdays Or Restricted Moderate	7. Ply ☑ Highly I Duty ☐ Perm D. Num D. High ☑ Citation ☐ Order	5.362(a)(2) Likely Occumentity Disabling Der of Persons Affecte E. Reckless Disreg Safeguard	rried Fatal d: 004 pard Written Notice Mo Da Yr
Safety Other Section II—inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia 11. Negligence (check one) 12. Type of Action 104(d)(114. Initial Action B. Order	No Likelihood No Lost Work Yes A: None 2)	Unlikely days: Lost Worl No B. Low C. 13. Type of Issuand	Reasonably Like Reasonably Like kdays Or Restricted Moderate ce (check one) (7. Ply ☑ Highly I Duty ☐ Perm D. Num D. High ☑ Citation ☐ Order	5.362(a)(2) Likely Occumentity Disabling Der of Persons Affecte E. Reckless Disreg	Fatal Fatal 004 pard Written Notice
Safety Other Section II—inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia 11. Negligence (check one) 12. Type of Action 104(d)(114. Initial Action B. Order	No Likelihood No Lost Work No Lost Work Yes A: None 2) C. Safeguard MMU-065 S	Unlikely days: Lost Worl No B. Low C. 13. Type of Issuand	Reasonably Like Reasonably Like kdays Or Restricted Moderate ce (check one) (7. Ply ☑ Highly I Duty ☐ Perm D. Num D. High ☑ Citation ☐ Order	5.362(a)(2) Likely Occumentity Disabling Der of Persons Affecte E. Reckless Disreg	Fatal Fatal d: 004 pard Written Notice Mo Da Yr
Safety Other Section II—Inspector's Evaluation 10. Gravity: A. Injury or Illness (has) (is): B. Injury or Illness could reasonably be expected to be C. Significant and Substantia 11. Negligence (check one) 12. Type of Action 104(d)(3) 14. Initial Action A. Citation B. Order 15. Area or Equipment THE	No Likelihood No Lost Work No Lost Work Yes A: None 2) C. Safeguard MMU-065 S	Unlikely days Lost Worl No B. Low C. 13. Type of Issuand D. Written Notice ECTION .	Reasonably Like Reasonably Like kdays Or Restricted Moderate ce (check one) (7. Ply ☑ Highly I Duty ☐ Perm D. Num D. High ☑ Citation ☐ Order	5.362(a)(2) Likely Occumentity Disabling Der of Persons Affecte E. Reckless Disreg	Fatal Fatal d: 004 pard Written Notice Mo Da Yr

MSHA Form 7000-3, for 08 (revised). In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Combudsman annually evaluates enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Sireet, SW MC 2120, Washington, DC 20416. Please note, however, that your right to life a comment with the Ombudsman is in addition to any other rights you may have, including the right to confest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission:

2145

21. Primary or Mill

23, AR Number

24172

MoDa Yr

09/23/2009

E01

20. Event Number

B. Time (24 Hr. Clock)

4119293

18. Terminated

22, Signature

A. Date

Section IV-Automated System Data

19. Type of Inspection (activity code)

Continua	ation/Order ition ibsequent Action/O					epartment of L afety and Healti	abor h Administration	9/201-11
1. Subseq ✓	uent Action Ia. (continuation Continuation	a 2. Dated (Original	Mo Issue) 09/	Da Yr 23/2009	3. Citation/ Order Number	8094604 - 01	
4. Served	to IT HAGER ((SUPER)			5. Opera PERFO		AL COMPANY	
6. Mine	BIG BRANC		en igen	, i i a manganganganganga	7. Mine l			(Contractor)
	ustification for Action		SOTH .		e de la Servicio de la			
Change	· · · · · · · · · · · · · · · · · · ·	F	rom			To	· · · · · · · · · · · · · · · · · · ·	
8. Condition Reason	RESPIRABL MMU-065 SI ORDINARY PARAMETE	E DUST CO ECTION, MA NEGLIGEN R CHECKS	INTROL PAR ANAGEMEN ICE IN THAT ON THE COI	AMETERS S TENGAGEE PRODUCTI NTINUOUS I	PECIFIED IN OIN AGGRAV ON WAS DEE MINING MAC	THE METHANI ATED CONDUC IMED MORE IM	ASSURE COMPLIA E DUST CONTROL CT CONSTITUTING IPORTANT THAN OLATION IS AN U	PLAN FOR THE G MORE THAN CONDUCTING
)	FAILURETO) COMPLY	WITH A MA	NDATORY S	ITANDARD,			
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								See Continuation For
Section III-9 8. Extende	Subsequent Action of To		Yr _ = 3a	. 1944 -				
	A, Date		B. Time (24	Hr. Clock)		☐ C. Vacated	D. Terminaled	☑ E. Modified
Carling M.	Inspection Data	and the second of the	A seed at 1 and a second of					

MSHA Form 7060-Sa, Mar 85 (revised)

	e-decisional Information	TION REVIEW FORM	U.S. Department Mine Safety and He		on
INE ID 4	60 84136	MSHA OFFIC	20401		
NINENAME U	LPPER BIL BE	1tw2-1204k			-
		2 Cool Compos	.		
Mation/Order No	8086905	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Date 10-21-0)વ	
mondih edinlet täh: "					
CCIDENT INFORM Vas this violation ass	ATION: locialed with an accident which	n caused an injury? YES	Mon I	If yes: Fatal?	Non-fatal?
EVIEW CRITERIA:	(Altach supplemental informal	lion if needed)		1000	School
		ence of a high degree of risk to th		17 Yes X 0 W N	<u>"</u>
		Occupation) 345414		and the second of the second o	i Kalan d alah da
		potor of the			
		op. the scoop s. Nowhere ou			
c) When and over	what period of time did the exp	osure occur? <u>Seatto</u>	s trace money	Com a L	സം ച <u>െ</u>
Seam	10-16-09 NO	Segan Padluctio	PO-19-01 a		
d) is this first hand	information? Yes \ No ided the information? (Name a		3		
		s, or reason to know, of the facts of the fa			No G <u>ARYMA</u> W
b) How was this ki	nowledge evidenced? <u>B</u> c	tive Section Museum	4900 Boduzos		
c) is this first hand	information? Yes No	Ċ			
	ided the information? (Name a	the property of the second sec		f many and many many	· · · - · · · · · · · · · · · · · · ·
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	interioriation: <u>FQuill</u>	· · · · · · · · · · · · · · · · · · ·	Roots INIBY Th	a Sections	
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Du	crinion:			· · · · · · · · · · · · · · · · · · ·	G
USPECTOR'S CON	CLUSION: iew, does this appear to be a p	possible knowing and/or willful viol		ealth or safety standa	nd? Yes No
NSPECTOR'S CON Based on this rev Inspector AR Nur	CLUSION: iew, does this appear to be a p	possible knowing and/or willful viol		ealth or safety standa	Q. 1
NSPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo	CLUSION: iew, does this appear to be a p mber: 24025 u agree with the inspector's co	possible knowing and/or willful viol Signature: No 🗔		ealth or safety standa	nd? Yes (No
NSPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo	CLUSION: Item, does this appear to be a posterior 2 402.5 u agree with the inspector's co	possible knowing and/or willful viol Signature: No 🗔		ealth or safety standa	nd? Yes No
USPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature:	CLUSION: New, does this appear to be a public. The property of the dispector's continuous agree with the inspector's continuous.	possible knowing and/or willful viol Signature:	ation of the Act or mandatory he	ealth or safety standa	nd? Yes No
NSPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: OSSIBLE RECOMI	CLUSION: iew, does this appear to be a p iber, 24025 u agree with the inspector's co Educations: idal investigation.	possible knowing and/or willful viol Signature: No I	ation of the Act or mandatory he	ealth or safety standa	nd? Yes No
USPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: OSSIBLE RECOMI A. Conduct a spe Assistant District N	CLUSION: New, does this appear to be a public. The property of the dispector's continuous agree with the inspector's continuous.	possible knowing and/or willful viol Signature:	ation of the Act or mandatory he	ealth or safety standa Date: 10	nd? Yes (No
USPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: OSSIBLE RECOMI A. Conduct a spe Assistant District N	CLUSION: iew, does this appear to be a p iber, 2 402.5 u agree with the inspector's co MENDED ACTIONS: idial investigation. Aanager: Recommendation:	cossible knowing and/or willful viol Signature: No I Inclusion? Yes No I C. No further action:	ation of the Act or mandatory he	ealth or safety standa	nd? Yes (No
USPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: OSSIBLE RECOMI A. Conduct a spe Assistant District N Signature: Supervisory Specia	CLUSION: iew, does this appear to be a p iber, 24025 u agree with the inspector's co Educations: idal investigation.	cossible knowing and/or willful viol Signature: No I Inclusion? Yes No I C. No further action:	ation of the Act or mandatory he	Date: Date: Date:	nd? Yes (No
ISPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: OSSIBLE RECOMI A Conduct a spe Assistant District N Signature: Supervisory Special	CLUSION: iew, does this appear to be a p mber: 2 4025 u agree with the inspector's co MENDED ACTIONS: cial investigation: Annager: Recommendation: al investigator, Recommendation:	cossible knowing and/or willful viol Signature: Inclusion? Yes No [] C. No further action: (A or C from the list above	ation of the Act or mandatory he	ealth or safety standa Date: 10	nd? Yes No
NSPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: POSSIBLE RECOMI A Conduct a spe Assistant District N Signature: Supervisory Special Signature: District Manager:	CLUSION: iew, does this appear to be a p mber: 2 4025 u agree with the inspector's co MENDED ACTIONS: cial investigation: Annager: Recommendation: al investigator, Recommendation:	cossible knowing and/or willful viol Signature: No I Inclusion? Yes No I C. No further action:	ation of the Act or mandatory he	Date: Date: Date:	nd? Yes No
ISPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: OSSIBLE RECOMI A. Conduct a spe Assistant District N Signature: Supervisory Special Signature: District Manager: Signature:	CLUSION: iew, does this appear to be a p mber: 2 4025 u agree with the inspector's co MENDED ACTIONS: icial investigation. Itanager: Recommendation: Action Decision A or	cossible knowing and/or willful viol Signature: No [] Inclusion? Yes No [] C. No further action: (A or C from the list above	ation of the Act or mandatory he	Date: 10	nd? Yes No
ISPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: OSSIBLE RECOM! A. Conduct a spe Assistant District N Signature: Supervisory Special Signature: District Manager: Signature:	CLUSION: iew, does this appear to be a p mber: 2 402.5 u agree with the inspector's co MENDED ACTIONS: cial investigation. all investigator, Recommendation: Action Decision, A or	cossible knowing and/or willful viol Signature: No [] Inclusion? Yes No [] C. No further action: (A or C from the list above	ation of the Act or mandatory he	Date: 10 Date: 10 Date: 10 Date: 10 Date: 10	nd? Yes (No
ISPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: OSSIBLE RECOMI A Conduct a spe Assistant District N Signature: Supervisory Special Signature: District Manager: Signature: ADDITIONAL COMM	CLUSION: iew, does this appear to be a p mber: 2 4025 u agree with the inspector's co MENDED ACTIONS: scial investigation: all Investigation: Recommendation: Action Decision: A or MENTS OR REMARKS:	cossible knowing and/or willful viol Signature: No [] Inclusion? Yes No [] C. No further action: (A or C from the list above	ation of the Act or mandatory he	Date: 10	nd? Yes (No
NSPECTOR'S CON Based on this rev Inspector AR Nur Supervisor: Do yo Signature: POSSIBLE RECOM! A. Conduct a spe Assistant District M Signature: Supervisory Special Signature: District Manager:/ Signature:	CLUSION: iew, does this appear to be a p mber: 2 1/02.5 u agree with the inspector's co MENDED ACTIONS: icial investigation. Manager: Recommendation: Action Decision A or Ments or REMARKS: TINEORMATION:	cossible knowing and/or willful viol Signature: No [] Inclusion? Yes No [] C. No further action: (A or C from the list above	ation of the Act or mandatory he above) above) Low Chick, and the Act or mandatory he above)	Date: 10 Date: 10 Date: 10 Date: 10 Date: 10	139/69 139/69 139/69 139/69 139/69 139/69

77-1000-VII. 14-cr-00244 Document 311-4 Filed 08/18/15 Page 114 of 156 PageID #: 5761

WHITE: SPECIAL INVESTIGATOR

\$71000-VH\$Ned\$14-cr-00244 Document 311-4 Filed 08/18/15 Page 115 of 156 PageID #: 5762

7.0

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Vietation Data	
1. Date Mo Da Yr 2, Time (24 Hr. Clock) 10/21/2009 0830	3. Citation/ Order Number 8086905
4. Served To Tim Williams (Foreman)	5. Operator PERFORMANCE COAL COMPANY
6. Mine	7. Mine ID. 16. 00126
UPPER BIG BRANCH MINE-SOUTH	7. Milne 10. 46-08436 (Confractor)
8. Condition or Practice	8a, Written Notice (103g)
Section located in the No. 2 entry in with a standard rule to be an average or canopy. The entry that the scoop w 82 inches. This section was moved from production on 10/19/2009. Management engaged in aggravated negligence, this violation is unwarrance.	39-230 being used on the 065-0 MMU, No. 3 h/by the last open break that measured so of 60 inches was not provided with a cab was located measured with a standard rule om a low seam on 10/16/2009 and began a conduct constituting more than ordinary untable failure to comply with a mandatory
standard.	
	We have been also also as the second of the
2.1. (2.1. 11.7. 11.7. 12.8.4.2.	See Continuation Form (MSHA Form 7000-3a)
9. Violation A. Health B. Section of Act	C. Part/Section of Title 30 CFR 75:1710-1
Section II-Inspector's Evaluation	
10. Gravity:	in and the state of the state o
A. Injury of Illness (has) (is): No Likelihood Unlikely	Reasonably Likely Highly Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Wo	rkdays Or Restricted Duty 🗸 Permanently Disabling 🗌 Fatal 🗌
G. Significant and Substantial: Yes ☑ No ☐	D. Number of Persons Affected: 001
(1. Negligerice (check one) A. None B. Low C.	Moderate ☐ D. High ☑ E. Reckless Disregard ☐
12. Type of Action 104(d)(2) 13. Type of Issuar	nce (check one) Citation Order V Safeguard Written Notice
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15 Area or Equipment The Fairchild scoo	p Serial No. 339-230 located on the 065
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)
Section III-Termination Action	
17. Action to Terminate	
18. Terminated A. Date Mo.Da Yr 10/21/2009 B. Time (24 Hr. Clock	1314
Section IV-Automated System Data	
19. Type of Inspection (activity code) B0.1 20. Event Number 6288652	21. Primary or Mill
22. Signature	23, AR Number 24025

In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1995, the Small Business Administration has MSHA Form 7000-3, Apr 08 (revised) MSRA Form 700-3, Apr to (revised) in accroance with the provisions of the antair barriers regulatory enforcement actions. The Original Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about the enforcement actions. The Original Business and regional Falmess Boards to receive comments from small businesses about the enforcement actions. The Original Business (Fyou wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Original Business Administration, Office of the National Original Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Mine Citation/Order Continuation			U.S. Department of Labor Mine Safety and Health Administration			
Section I-Subsequent Action/Continuation Data						
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da Yi 10/21/2009	3, Citation/ Order Number 8086905	÷ 01		
4. Served To		5. O	erator			
Rick Foster (Mine Foreman)	:	PER	FORMANCE COAL COMPA	NY		
6: Mine: UPPER BIG BRANCH MINE-S	OUTH	7: Mi	46-08436	(Contractor)		
The attended to the organization of a contract the						

A canopy was provided for the Fairchild scoop Serial No. 339-230.

			The property of the state of th	eg te	See Continuation Form:
Section III-Subsequent Action Taken				· · · · · · · · · · · · · · · · · · ·	
8. Extended To A. Date Mo I	Da Yr B. Time (24 Hr. Clock)	· · · · · · · · · · · · · · · · · · ·	C, Vacated	D. Terminated	☐ E. Modified
Section IV-Inspection Data			-		
9. Type of Inspection E01	10. Event Number 6288652	2	The first of succession of the		
11. Signature	AR Number 24025	12. Date	Mo De Yr 10/21/2009	13. Time (24 Hr. Cl 1314	ock)

(Confidential, Pre-decisional Information)	U.S. Department of Labor
	Mine Safety and Health Administration
MINE 46-08436 MSHA OFFICE	Mt. Hone
MINENAME Upper Aig Branch Mino-South	
COMPANY NAME Performance Coal Company	
Citation/Order No. 8080092 Date	ie 10-14-2004
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO If yes: Falai? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
 Did the condition or practice cited create the presence of a high degree of risk to the h Who was exposed to the hazard? (Name and Occupation) 	ealth and/or safety of miners? Yes
Rayer Scientro (show operator) Terrance lid Kins (show operato) How were they exposed to the hazard? The escapeuray was less	ton) Travis Nelson (Jacknew) take Ford (chiefe than 6 feet wider
c) When and over what period of time did the exposure occur? Zem 7:30cm	to 10:35 mm, over 3 hours
d) Is this first hand information? Yes \[\text{No} \] If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or c	onditions constituting the violation? Yes No
a) Who had this knowledge? (Name and Title) Charles Davis Charges	Il Section Boss?
b) How was this knowledge evidenced? The longwall Section Bry Her beginning of the Shift.	told me that the sib roll was
If not, who provided the information? (Name and Occupation)	
3. Any other pertinent information:	4
3. Any other perlinent information:	
INSPECTOR'S CONCLUSION:	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation.	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation inspector AR Number: 24386 Signature: Manual E.	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation.	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation inspector AR Number: 24326 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS:	Date: 10-19-2009
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation inspector AR Number: 2436 Signature: Signature: No Signature: No Signature: No Signature: No Signature: No Signature: No Signature:	Date: 10-19-2000
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation inspector AR Number: 2436 Signature: No Signature: No Signature: No Signature: No Signature: No Conduct a special investigation.	Date: 10-19-2009
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in the inspector of the impector's conclusion? Yes in the impector in the	Date: 10-19-20-09 Date: 10-28-9 Date: 10/30/09
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation inspector AR Number: 2436 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. G. No further action. Assistant District Manager: Recommendation: G. No further action. Signature: Supervisory Special investigator: Recommendation: A or C from the list above. Signature:	Date: 10-19-20-09 Date: 10-28-9 Date: 10/30/09
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatile inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special investigation. Recommendation: Signature: District Manager: Action District. District Manager: Action District. Are C from the list above) Signature: District Manager: Action District. District Manager: Action District. Signature: District Manager: Action District. Are C from the list above)	Date: 10-192009 Date: 10-28-9 Date: 10/30/09 Date: 10/30/09
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: District Manager: Relion Decision (A or C from the list above)	Date: 10-192009 Date: 10-289 Date: 10/30/09 Date: 11/2/09
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatile inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special investigation. Recommendation: Signature: District Manager: Action District. District Manager: Action District. Are C from the list above) Signature: District Manager: Action District. District Manager: Action District. Signature: District Manager: Action District. Are C from the list above)	Date: 10-192009 Date: 10-289 Date: 10/30/09 Date: 11/2/09
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation in the inspector of the inspector's conclusion? Yes No Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special investigator: Recommendation (A or C from the list above) Signature: District Manager: Action Digision (A pr C from)the list above) Signature: ADDITIONAL COMMENTS OR REMARKS:	Date: 10-28.59 Date: 10/30/09 Date: 11/2/09 Date: 11/2/2009 Date: 11/2/2009 Date: 11/2/2009
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatile inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special investigation. Recommendation: Signature: District Manager: Action District. District Manager: Action District. Are C from the list above) Signature: District Manager: Action District. District Manager: Action District. Signature: District Manager: Action District. Are C from the list above)	Date: 10-28.9 Date: 10/30/09 Date: 11/2/09 Date: 11/2/09 Date: 11/2/2009

WHITE: SPECIAL INVESTIGATOR

MSHA Form 7000-20, June 97 (revised)

√ine Citatio	on/Order						U.S. Dep Mine Saf				fion	
Section I-Violati	ion Data			dur v.			Mine Odi	cty and i	Jealul 7	WITH HOUSE	inoi i	
1. Date	Mo Da Yr 10/19/200		2. Time (24	Hr. Clo 1035			1	· · · · · · · · · · · · · · · · · · ·		3. Citation/ Order Nu	mber 8080	092
4. Served To Jack Roles,	No. 12 The A		inator				5. Operato			L COMP	INY	, , ,
6. Mine	TriniBatta	COSSO	mineral.			h	7. Mine ID			7		<u> </u>
UPPER BIO		H MIN	E-SOUT	H				46-U	8436			(Contractor)
8: Condition o											The state of the s	en Notice (103g)
maintai	ned 6 f ell bet	feet [wee]	wide.	A r	ib rol	l of	8.5 fee	t lon	g X	3.5 fe		g t X 3 feet ay to be
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					¥.					-		
					*			-		*		
					•				÷			
	•									See Conti	walion Form (MS	HA Form 7000-3a)
9. Violation	A. Health Safety V		Section of Act	.	*		Part/Section of Itle 30 CFR	of .	!- ` 	75.380		
Section II-Inspe	1555 11500	n		÷ 4 ···			- 	· · · · · · · · · · · · · · · · · · ·			20 - 20 - 20 - 20 - 20 - 20 - 20 - 20 -	7
10. Gravity:	mode to a section of	TURENIA DA.	ann wessernasen nicht		na tanàna makani at a	·	English of the second	NAMES OF THE PARTY		nama ka sahiran - 1	processi	
	Illness (has)		lo Likelihood		Unlikely	<u> </u>	Reasonably	Likely [H	ghly Likely	Occi	irred 🗌
o. Injury or sonably	illness could be expected t	rea- o be:	No Lost V	Vorkday	/s 🔲 L	ost Workd	lays Or Restri	cted Duty		Permanently	Disabling 🗸	- Fatal 🗌
C. Significa	int and Subst	antial:	Yes [j ,	No 🗹				D.	Number of I	Persons Affecte	^{d:} 004
11. Negligence	e (check one)	A	None 🔲	E	3. Low 🔲	C.M	oderate 🗍	D. F	tigh 🕢	Ē,	Reckless Disreg	ard 🗌
12. Type of Ac	tion 1040	(d)(2)			13. Туре с	fissuance	(check one)	Citation		Order 🗹	Safeguard 🗌	Written Notice
14. Initial Action A. Citation		☑ c	Safeguard		. Written Not	ce 🗇 .	E, Citation/ Order Nur	mber	808	2692	F. Dated	Mo Da Yr 03/17/2009
15. Area or Eq	ulpment	The	Longwa	a I I			***				·	
•				* * * * *						ż	·	
16. Terminatio	in Due A.	Date	Mo Da Yr	В	. Time (24 H	Clock)	 					
Section III-Term	Ination Action											
17. Action to T	eminate	The	rib re	oli ·	was cl	eaned	up.					
18. Terminater	A. Date	Mo Da 10/19/		Time (24 Hr. Clock	1	125	· \.		<u></u>		ar maini miyana.
Section IV-Auto												
19. Type of ins (activity co	de) I	302	20, Event Nu	mber	6288	656	21. Pr	imary or M	# <i>J</i>			A
22. Signature	Kein	E.	Zal	e-		-2				23. AR N	umber 24	1320

in accordance with the provisions of the Smail Business Regulatory Entorcement Farness Act of 1995, the Smail Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Farness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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'Mine Citation/O	der
Continuation	

U.S. Department of Labor

Continuation	er transfer		Ň,	dministration				
Section I-Subsequen	nt Action/Continuation Data							
1. Subsequent Ac	lion 1a. Continuation	2. Dated (Original Issue)	Mo Da 10/19/2009	777 \$14	. Citation/ Order Number 8	080092 - 01		
4. Served To Jack Roles, Lo	ngwall Coordinato			. Operator	MANCE COAL	, COMPANY,		
6. Mine	RANCH MINE-SO		7	. Mine ID	46-08436		(Contractor)	
Section II—Justification	in for Action	9. 	The state of the s		, , = F			
Change	Fr	om			To			
8. Condition Or Pro	aclice		a a					
Reason To rea	nd (This violation is	m unwarrantable fa	ilure to comply	with a n	andatory standard	(1)	•	
Ne	ed to add a	sentence af	ter the	last	sentence i	n the body	of the	

See Continuation Form Section III-Subsequent Action Taken 8. Extended To B. Time (24 Hr. Clock) A. Date C. Vacated D. Terminated E. Modified Section IV-Inspection Data 9. Type of Inspection E01 10. Event Number 6288652 AR Number 12. Date Me Da 13. Time (24 Hr. Clock) Yr 24320 10/26/2009

MSHA Form 7000 Sa, Mar 85 (revised)

0£1000-VHSA56-314-cr-00244 Document 311-4 Filed 08/18/15 Page 120 of 156 PageID #: 5767

POSSIBLE KNOWING WILLFUL VIOLATION REVIEW FORM Confidential, Pre-decisional Information)	U.S. Department of Labor Mine Safety and Health Administration	
IINE ID 4608436 MSHA OFFIGE	0401	
MINENAME Upper Big Branch Min		<u></u>
	ompany	· · · · · · · · · · · · · · · · · · ·
AND THE CITE OF THE COLUMN THE CO	2-7-NO	
itation/Order No. 80701301	ite U S	 ,
CCIDENT INFORMATION: Vas this violation associated with an accident which caused an injury? YES	NO. If yes: Fatal? 🗀 Non-l	fatal? 🔲
EVIEW CRITERIA: (Attach supplemental information if needed)	and the second s	
. Did the condition or practice cited create the presence of a high degree of risk to the a). Who was exposed to the hazard? (Name and Occupation)	health and/or safety of miners? Yes	-
names of miners are attac	her for the the sec	A. mu
b) How were they exposed to the hazard? The inte Ke air fo	r these sections	trav
by this room that has not	been pre-shifted.	
c) When and over what period of time did the exposure occur? Since H	ie #sentry has be	2 = _
come intake.	<u> </u>	ٽيس باسمس ٽ
d) is this first hand information? Yes X No () If not, who provided the information? (Name and Occupation)		
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or a) Who had this knowledge? (Name and Title) スロハドと デモロリュのハ	conditions constituting the violation? Yes No	
	hown on the 1200 m	GD.
b) How was this knowledge evidenced? This room was 5 s c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	HOWN ON THE LAGO III	
c) Is this first hand information? Yes No \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:		
c) Is this first hand information? Yes No \(\sum_{\text{inot}}\) No \(\sum_{\text{ord}}\) If not, who provided the information? (Name and Occupation) \(\sum_{\text{ord}}\) 3. Any other pertinent information: NSPECTOR'S CONCLUSION:		€ No.
c) Is this first hand information? Yes \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	ion of the Act or mandatory health or safety standard? Yes	20.00
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation inspector AR Number: 2 L 1 1 7 Signature: C Color		20.00
c) Is this first hand information? Yes \ \ No \ \ If not, who provided the information? (Name and Occupation) \ 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola	ion of the Act or mandatory health or safety standard? Yes	20.00
c) Is this first hand information? Yes No Information? (Name and Occupation) If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Inspectors: Signature: Signature: POSSIBLE RECOMMENDED ACTIONS:	ion of the Act or mandatory fiealth or safety standard? Yes	20.00
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: \(\frac{7}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{1}{2} \) \(\fr	ion of the Act or mandatory fiealth or safety standard? Yes	20.00
c) Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola inspector AR Number: 2 L 1 1 7 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action: Assistant District Manager: Recommendation: (A or C from the list above)	ion of the Act or mandatory fiealth or safety standard? Yes Date: 8 -4 -	09
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violat inspector AR Number: \(\frac{7}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{5}{2} \) \(\frac{1}{1} \) \(\frac{7}{2} \) \(\frac{1}{2} \) \(\f	ion of the Act or mandatory health or safety standard? Yes Date: 8 -4 -	09 2009
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \ No \ \ Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. \ C. No further action. \ Assistant District Manager: Recommendation: Supervisory Special Investigator: Recommendation: A or C from the list allowed the li	on of the Act or mandatory health or safety standard? Yes Date: 8-4- Date: 8/0/0	09 2009
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: \(\frac{7}{2} \) \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	ion of the Act or mandatory health or safety standard? Yes Date: 8 -4 -	09
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \ No \ \ Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. \ C. No further action. \ Assistant District Manager: Recommendation: Supervisory Special Investigator: Recommendation: A or C from the list allowed the li	on of the Act or mandatory health or safety standard? Yes Date: 8-4- Date: 8/0/0	09
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: \(\frac{1}{2} \) \(\fr	on of the Act or mandatory health or safety standard? Yes Date: 8-4- Date: 8/0/0	09 2009
c) Is this first hand information? Yes \ No \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola inspector AR Number: \(\frac{7}{2} \) \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	on of the Act or mandatory health or safety standard? Yes Date: 8-4- Date: 8/0/0	09
c) Is this first hand information? Yes \ No \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola inspector AR Number: \(\frac{7}{2} \) \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	on of the Act or mandatory health or safety standard? Yes Date: 8-4- Date: 8/0/0	09 2009
c) Is this first hand information? Yes \ No \ If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viola inspector AR Number: \(\frac{7}{2} \) \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	on of the Act or mandatory health or safety standard? Yes Date: 8-4- Date: 8/0/0	<u>09</u> 2009
c) Is this first hand information? Yes \ No \ \ If not, who provided the information? (Name and Occupation) \ 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatinspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes \ No \ \ Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. \ \ C. No further action. \ Assistant District Manager: Recommendation: Supervisory Special Investigator: Recommendation: Obstrict Manager: Action Decision: \ A or C from the list above) Signature: District Manager: Action Decision: \ A or C from the list above) Signature: ADDITIONAL COMMENTS OR REMARKS:	on of the Act or mandatory health or safety standard? Yes Date: 8-4- Date: 8/0/0	<u>09</u> 2009

U.S. Department of Labor Mine Safety and Health Administration
3. Citation/ Order Number 8094551
5. Operator
PERFORMANCE COAL COMPANY
7. Mine ID 46-08436 (Contrac
8a. Wriften Notice (103g)
PRE-SHIFT EXAMINATION ON THE ROOM THAT HE INTAKE AIR COURSE AT SPAD #26 SOUTH
•
See Continuation Form (MSHA Form 7000-3a)
Part/Section of, Title 30 CFR 75.360(b)(6)(11)
A CONTRACTOR OF STATE
Reasonably Likely Highly Likely Occurred
days Or Restricted Duty Permanently Disabling Fatal
D. Number of Persons Affected: 018
Moderate ☐ D. High ☑ E. Reckless Disregard ☐
æ (check one) Citation ☐ Order ☑ Safeguard ☐ Written Notice
E. Citation/ 8082692 F. Dated Mo Da Yi Order Number 03/17/20
<u>ė</u>
21. Primary or Milf

MSHA Form 7000.3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ontbudsman and 10 Regional Fairness Boards to receive comments from small business about rederal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888 AEG-FAIR (1-886 734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 408 and Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have; including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Conti	Citatio nuatio	n/Order 1	\$ 4			,				U.S. I Mine	Depa Safe	irtment tv and F	of Lai	oor Administration	8/5/09	. 2
Section	I Subse	quent Actio	т/Со ябі	nuation Da	ata			- A Communication - Communication	***************************************			G Grid I	icaini,	ouninguation)
1. Sub	vequent ✓	Action 1a	L Con	Inualion		2. Dated	nal Issue)	Мо	Da	Υr	3.	Citation/		OOMEST.	3-1	
4. Serv		-8				(Cuilli	narissue)	08/0	03/20			Order Nu	nber (3094551 - 1	<i>7</i> 4	
RICK	FOST	CER (A	IINE	FORE	MAI	N)				5. Ope	rator YNR 1	MANCE	የርሳል	L COMPANY	<i>t</i>	
6. Mine	•	1,000		,		100 mm 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1				7. Mins	ID:		::		(Contractor)	
OPPE Section	II-Austific	BRAN	CHI	MINE-	SOU	TH		<u>, , , , , , , , , , , , , , , , , , , </u>	·			46-0	3436			e. 1.
	10.00				er er er				 -				بسنادي	1,000		
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ecilon I	II_Snhea	quent Action	Takan							1991		· · · · · · · · · · · · · · · · · · ·	100 m		See Continuation F	V(1)
	ided To		Mo	يتبات فيستلان	۲r _B	. Time /3	4 Hr. Cloc	()	شيور با	-	ſ] G. Vac	ited	☑ D. Terminated	☐ E Modified	
ection i	V_Inches	tion Data	· · · · · · · · · · · · · · · · · · ·	***					-	7.7	1:					
	of Inspe		01	10). Ever	it Numb	er 41	19293		<u> </u>						-
4 Oil	interio	——————————————————————————————————————			· .	-	AR Num		- 140	Date	812) Dá	Ýr]	13. Time (24 Hr.	Dige(s)	<u> </u>
A Sign		ρ		71			24172	nat	1.2	Laid		, <i>pa</i> 08/04/20		10. Time (24 m).		• •

EE1000-VHSU3-4-cr-00244 Document 311-4 Filed 08/18/15 Page 123 of 156 PageID #: 5770

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM	U.S. Department of Labor
(Confidential, Pre-decisional information)	Mine Safety and Health Administration
MINE ID 4608436 MSHA OFFICE	0401
	-South
	ombanu
Sitation/Order No. 8094.550 Dat	min and the state of the state
CCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO.E If yes: Fatal? ☐ Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
 Did the condition or practice cited create the presence of a high degree of risk to the high Who was exposed to the hazard? (Name and Occupation) 	
Names of miners are attack	
b) How were they exposed to the hazard? Do + hauing an a	ccurate and up to a
map in the event of ane of what period of time did the exposure occur. This cor	
for several shifts.	101 1101 1103 = X10 1 CO
d) Is this first hand Information? Yes No \ If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or or a) Who had this knowledge? (Name and Title) コロ Mic Ferg いらん	onditions constituting the violation? Yes No No
b) How was this knowledge evidenced? Mr. Ferguson 5 h	
+o make sure it's correct.	
c) is this first hand information? Yes	
3: Any other pertinent information:	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violatio	n of the Act or mandatory health or safety standard2.Yes □ N
Inspector AR Number: 2417 7 Signature: Que &	atheu Date: 8-4-09
Supervisor: Do you agree with the inspector's conclusion? Yes No	
Signature: Then a C. Clast	Date: 8-6-20
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation. C. No further action.	
Assistant District Manager: Recommendation: (A or C from the list above)	DI LO
Signature: (Mich Z Gulf)	Date: 8/10/09
Supervisory Special Investigator. Recommendation: (A of Grom the list about 1997)	Date: 8/11/99
District Manager Aution Decision: (A/o C from the list above) Signature:	Date: 6//2/1
ADDITIONAL COMMENTS OF REMARKS: 7 (1) 0 (1)	in do not most
the cuterin De a 11	o ensestation.
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	ID No.
	and the second of the second o

7£1000-VH545-14-cr-00244 Document 311-4 Filed 08/18/15 Page 124 of 156 PageID #: 5771

	* * * * * * * * * * * * * * * * * * *
Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 1355	3. Citation/ Order Number 8094550
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY
6. Mine	7. Mine ID 46-08436
UPPER BIG BRANCH MINE-SOUTH 8. Condition of Practice	(Contractor):
THE 1200 MAP FOR THIS MINE WAS INACCURATED FOR THE SOUTH PORTALS IN THE #4 ENTRY. ALSO THE #4 ENTRY HAS A STOPPING PRIMARY ESCAPEWAY IS SHOWN COMING OUT THE #5 PORTAL.	TRY AND THE FAN IS LOCATED IN THE #5 3 INSTALLED ACROSS THE MINE OPENING. THE
9. Violation A. Health B. Section C. P	See Continuation Form (MSHA Form 7000-Se)
Safety ✓ of Act T	ille 30 CFR 75.1200
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or Iliness (has) (is): No Likelihood Unlikely V	Reasonably Likely: Highly Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays 2 Lost Workd	ays Or Restricted Duty Permanently Disabling Fater
C. Significant and Substantial: Yes No M	D. Number of Persons Affected: 018
11. Negligence (check one) A. None B. Low C. Mc	oderate D. High 🗹 E. Reckless Disregard 🗌
12. Type of Action 104(d)(2) 13. Type of Issuance	(check one) Citation Order V Safeguard Written Notice
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E. Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15. Area or Equipment THE #3 AND #4 SECTIONS.	
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III—Termination Action	
17. Action to Terminate	-
18. Terminated A. Date MoDa Yr B. Time (24 Hr. Clock)	
Section IV—Automated System Data	
19. Type of Inspection (activity code) E01 20. Event Number 4119293	21. Primary or Mill
22. Signature O very & ather	23. AR Number 24172
MSHA Form 7000-3 for 08 movisoril In accordance with the provisions of the Small Bi	usiness Regulatory Enforcement Falmess Act of 1998, the Small Business Administration has

MSHA Form 7000-3. Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rate each agency responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-764-3247), or write the Ombudsman & Small Business Administration, Office of the National Ombudsman; 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to tile a comment with the Ombudsman is Inaddition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Mine Citation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration	
Section I-Subsequent Action/Continuation Data 1. Subsequent Action 1a. Continuation 2. Dated	Vio Da Yn I3 Citation/	
(Original Issue)	08/03/2009 3. Citation/ Order Number 8094550 - 01	
4. Served to	5. Operator	
RICK FOSTER (MINE FOREMAN)	PERFORMANCE COAL COMPANY	in a second transfer
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID (Contractor) 46-08436	2
Section II-Justification for Action		

THE 1200 MAP IS NOW UP TO DATE IN THE AFFECTED AREA.

Section III-Subse	ouent Action Take	n					See Continuation Form
8. Extended To		Da Yr	B. Time (24 Hr. Glock)	m on a series	☐ C. Vacaled	D. Terminated	☐ E. Modified
Section IV-Inspec 9. Type of Inspe		10. 8	Event Number 4119293			***************************************	
Signature O-LA	4 <u>f</u>	át	AR Number 24172	12. Date	Mo Da Yr. 08/04/2009	13, Time (24 Hr. Cl 1300	ock)

onfidential, Pre-decisional Information)	
NEID 4608436 MSHA OFF	ICE 20401
VENAME UPPER BIGBRACK-South	
IMPANY NAME PERFORMANCE COOL COMPANY	
	Date 10-21-69
ation/Order No. 8086909	Date 10
CIDENT INFORMATION: as this violation associated with an accident which caused an injury? YES] Non-fatal? [
VIEW CRITERIA: (Attach supplemental information if needed)	tion beginning grown
Did the condition or practice cited create the presence of a high degree of risk to to i). Who was exposed to the hazard? (Name and Occupation)	
OMAR Lewis, Michael JACquez,	
How were they exposed to the hazard? No PRotection Proud	ded top the protection of the
OpeRotor From the Roof or Rib. When and over what period of time did the exposure occur? Section	u began Phoduction
10-19-09.	
i) Is this first hand information? Yes No If not, who provided the information? (Name and Occupation)	
Did the operator or agent have actual knowledge, or reason to know, of the facts	or conditions constituting the violation? Yes 🔽 No 🗌
i) Who had this knowledge? (Name and Title) Tim Lathons, Rick F	
How was this knowledge evidenced? GAP4 MA4 Med subscribes Walk (company of the Company of the Co	& Behing We stom We he house
	ts owthe Soction Dathy,
) is this first hand information? Yes No 🗌	ts outhor Southern Darry,
) is this first hand information? Yes No	
) is this first hand information? Yes No	the Approval of 66+67 methous Duct
is this first hand information? Yes No	the Approval of 66+67 methous Duct
3) Is this first hand information? Yes No ☐ If not, who provided the information? (Name and Occupation) Any other pertinent information: ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○	the Approval of 66+67 methous Dust stall the campness.
S) Is this first hand information? Yes No	the Approval of 66+67 methous Dust stall the campness.
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Bigger EQuip and Failed to The SPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful vice inspector AR Number: 21025 Signature	the Marchan St. 66+67 methans Dust stall the Campines on the Compines to the Compines of the Compines of the Compines of the Act of mandatory health or safety standard? Yes No.
Is this first hand information? Yes No	the Approval of 66+67 methods Dust tall the Campres on the Compress. Date: TO-29,-09.
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Bigger Eduap and Folled to The SPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful vice Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Signature:	the Marchana Dust stall the Camponent on the Camponent of Stall the Camponent on the Camponent of the Act of mandatory health or safety standard? You No.
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Bigger EQuip and foiled to The SPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful vice Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Signature:	The Approval of 66+67 methans Dust tall the Campres on the Compress. Date: 10-29-69
Is this first hand information? Yes No	the Approval of 66467 methans Dust stall the Camprison on the Comprison ballion of the Act of mandatory health or safety standard? Yes No. Date: 10-29-09.
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Bigger EQuip. and folled to The SPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful vice inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Separature: Separature: Separature: Separature: C. No further action.	the Approval of 66467 methans Dust stall the Campres on the Compression along the Actor mandatory health or safety standard? Yes No. Date: 10-29-09.
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Bigger Four. and failed to The Performance of the pertinent information: Plan Bigger Four. and failed to The Performance of the Performan	the Approval of 66467 methans Dust stall the Campment on the Compment of balling of the Act of mandatory health or safety standard? Yes No Date: 10-29-09 Date: 10/29/69 Date: 10/29/69
Is this first hand information? Yes No	the Approval of 66467 methans Dust stall the Camprison on the Comprison Date: 10/29/69 Date: 10/29/69 (above)
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Bigger EQuip. and failed to The SPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful vice inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: DISSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation I C. No further action.' Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature:	the Approval of 66467 methans Dust stall the Campment on the Compment of balling of the Act of mandatory health or safety standard? You No. Date: 10-29-09 Date: 10/29/69
If not, who provided the information? Yes No Interpretation (Name and Occupation) Any other pertinent information: Plan Bigger EQuip. a.8 folled to The SPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful victinspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: District Manager: Recommendation: Signature: C. No further action. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigation: Recommendation: Supervisory Special Investigation: Recommendation: Supervisory Special Investigation: Supervisory Special Investigation: Supervi	the Approval of 66467 methans Dust stall the Campment on the Act or mandatory health or safety standard? Yes No. Date: 10/29/69 Date: 10/29/69 Date: 10/39/69 Date: 10/39/69
Is this first hand information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Bigger EQuip. and folled to The SPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful vice Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Signature: Plan Bigger EQUIP. and folled to The Signature Signature: C. No further action. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: C. No further action. Assistant Platrict Manager: Recommendation: Signature: District Manager: Action Decision: C. From the list above. Signature: District Manager: Action Decision: C. From the list above.	the Approval of 66467 methans Dust stall the Campment on the Act or mandatory health or safety standard? Yes No. Date: 10/29/69 Date: 10/29/69 Date: 10/39/69 Date: 10/39/69
Is this first hand Information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Brigger Found and Folled to The Spectror's Conclusion: Based on this review, does this appear to be a possible knowing and/or willful vision in the spectra AR Number: Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Signature: Dissibile RECOMMENDED ACTIONS: A Conduct a special investigation: Assistant District Manager: Recommendation: Signature: Supervisory Special investigator: Recommendation: Signature: District Manager: Action Decision: Signature: Signature: District Manager: Action Decision: Signature: District Manager: Action Decision: Signature: Signatu	the Approval of 66467 methans Dust stall the Campment on the Act or mandatory health or safety standard? Yes No. Date: 10/29/69 Date: 10/29/69 Date: 10/39/69 Date: 10/39/69
If not, who provided the information? Yes No I If not, who provided the information? (Name and Occupation) Any other pertinent information: Plan Bigger EQuip and foiled to The SPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful vice Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No I Signature: Signature: Signature: C. No further action.' Assistant District Manager: Recommendation: (A on C from the list above Signature: Supervisory Special Investigator: Recommendation: (A of C from the list Signature: District Manager: Action Decision: (A of C from the list above) Signature:	the Approval of 66467 methans Dust stall the Campment on the Act or mandatory health or safety standard? Yes No. Date: 10/29/69 Date: 10/29/69 Date: 10/39/69 Date: 10/39/69

4£1000-VHS48e4514-cr-00244 Document 311-4 Filed 08/18/15 Page 127 of 156 PageID #. 5774 Mine Citation/Order U.S. Department of Labor Mine Safety and Health Administration Section I-Violation Data 2. Time (24 Hr. Clock) 1. Date Mo Da Yr 3. Citation/ 8086909 Order Number 10/21/2009 0925 4. Served To 5. Operator PERFORMANCE COAL COMPANY Tim Williams (Foreman) 7. Mine ID 46-08436 UPPER BIG BRANCH MINE-SOUTH (Contractor) 8. Condition or Practice 8a. Written Notice (103g) The Joy shuttle car Serial No. 16851A being used on the 064-0 MMU, No. 3 Section located at the section dumping point that measured with a standard rule to be an average of 60 inches was not provided with a cab or canopy. The entries located to the working faces on the 064 MMU average measured with a standard rule to be 51 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009, Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.

				<u> </u>		See Conti	nuation Form (MSH	IA Form 7000-3a)
9. Violation	A. Healt Safet Othe	ý 🗸	B. Section of Act	12	C. Part/Section of Title 30 CFR	75,17	10-1	
Section II-Inspe	ector's Evalu	iation						
10. Gravity:	unidensis . San	Veete.	niciae de la Colonia de Colonia d	m waterwater dan di promis	Zako is mor unterstativo di Maniero e	a manual substantial streething.		\-:k.
A. Injury o			No Likelihood] Unlikely [Réasonably Likel	Y Highly Likely	Occu	med 🗌
B. Injury o sonably	r illness co be expec		No Lost Wor	idays 🗌 Losi I	Norkdays Or Restricted I	Outy 🗹 Permanently	/ Disabling 🔲	Fatal 🗌
C. Signific	ant and Si	ubstantial	Yes ☑	No 🗌		D. Number of	Persons Affected	001
11. Negligeno	æ (check o	one)	A None	B. Low	C. Moderate	D. High 🔽 E.	Reckless Disreg	ard 🗍
12, Type of A	ction [04(d)(2)	13. Type of Iss	uance (check one) C	itation 🗌 Grder 🗹	Safeguard [Written Notice
14. Initial Acti A. Citation		rder 🕢	C. Safeguard ☐	D. Written Notice	E. Citation/ Order Number	8082692	F. Dated	Mo Da Yr 03/17/2009
15. Area or E	quipment	,	The Jo	y shuttle o	ear, Serial N	6. 16851A, Îd	ocated or	the 064
16. Termination	on Due	A. Date	Mo Da Yr	B. Time (24 Hr. Clo	ock)	. =	i iii ii	
Section III-Tem	nination Act	ÓΠ						
17. Action to	Terminate							
18. Terminate	A. Date		Da Yr 1/2009 B. Tin	ne (24 Hr. Clock	1315			
Section IV-Auto	maled Syst	em Dala		**.				·
19. Type of in (activity or	spection ode)	E01	20. Event Numb	er 628865	21. Primary	orMill		
22. Signature	0) (2)		<u>)</u>		23. AR N	umber 24	025

In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1995, the Small Business Administration has MSHA Form 7000-3, Apr 08 (revised) established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fatmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1:888-REG-FAIR (1:888-794-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 and Street, SW. MC 2120, Washington, DC 20416. Please note, however, that your right to tile a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest cliations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Mine Citation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration						
Section I-Subsequent Action/Continuation Data			. ,,,				
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	,Mo 10/	Da 21/200	Yr 19	3. Citation/ Order Number 8086909 - 0)1	
4. Served To Rick Foster (Mine Foreman)				5. Oper PERF	ator DRMANCE COAL COMPANY	Ž.	
6. Mine UPPER BIG BRANCH MINE-SO	•			7. Mine	46-08436	(Contract	or)
Section II-Justification for Action							****

A canopy was provided for the Joy shuttle car Serial NO. 16851A.

•						See Continuation Form
Section III-Subsequent Action Taken						A Plant .
8. Extended To A. Date Mo	Da Yr	B. Time (24 Hr. Clock)	,	C. Vacated	☑ D. Terminated	☐ E. Modified
Section IV-Inspection Data						
9. Type of Inspection E01	10. E	vent Number 6288652				
11. Signature	ي ا	AR Number 24025	12. Date	Mo Da Yr 10/21/2009	13. Time (24 Hr. Cloc 1315	k)

(Confidential, Pre-decisional Information)	Mine Safety and Health Administration	
MINE ID 4668436 MSHA OFFICE	20401	
MINENAME Upper Be Bruch Nine-South		
COMPANY NAME PER FORMANCE COOL COMPANY	The second secon	
	ate /0-21-09	
Citation/Order No. 8086908 Da	ate /0-21-09	<u></u> ,
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO If yes: Fatal?	fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	Viii.	
 Did the condition or practice cited create the presence of a high degree of risk to the a) Who was exposed to the hazard? (Name and Occupation) 		
EQUIPMENT OPERATOR JUSTIN MOUR		
b) How were they exposed to the hazard? No PRotection Prou	X	
c). When and over what period of time did the exposure occur?	PO-P1-01 nother BOAS	
d) is this first hand information? Yes No		
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or a) Who had this knowledge? (Name and Title) This world care follows.	conditions constituting the violation? Yes No	
b) How was this knowledge evidenced? Chay May mouse as 4	and the control of th	4
c) Is this first hand information? Yes No If not, who provided the information? (Name and Occupation)		
3. Any other perfinent information: Sections moved them of	Was Care Mi. Vollege	
2 00 day Sobrust of Solid Cul	and the second s	
The more to a to the control of the	signal tox me assurption	
	A STATE OF THE PROPERTY OF THE	<u> </u>
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violal	ion of the Act or mandatory health or safety standard? Ye	s⊟ NolX
Inspector AR: Number: 24025 Signature	Date: /0-2	
Supervisor. Do you agree with the inspector's conclusion? Yes⊠ No □		- (-)
Signature: Folyman O. M. Atlanti	Date: A/A	the
POSSIBLE RECOMMENDED ACTIONS:	Signal	(0)
A. Conduct a special investigation. C. No further action.	1	
Assistant District Manager: Recommendation: (A or C from the list above)		
Signature: June 2	Date: (10/2	8/09
Supervisory Special investigator: Recommendation:	The state of the s	1 .
Signature: Land Hocker	Date: 10/30/	01
District Manager, Acilon Decision: (C. JA/or C from the list above) Signature: Het D. Harry	Date: 16/30	1200
ADDITIONAL COMMENTS OF REMARKS:	in day not med	t '
the outered for further	review,	
CASE ASSIGNMENT INFORMATION:		
Investigation Case No.	Date Assigned	
Investigator Assigned	ID No.	
The second state of the se		

971000-VHSWed314-cr-00244 Document 311-4 Filed 08/18/15 Page 130 of 156 PageID #: 5777

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2: Time (24 Hr. Clock) 0910	3. Citation/ Order Number 8086908
4. Served To Tim Williams (Foreman)	5. Operator PERFORMANCE COAL COMPANY
6. Mine	
UPPER BIG BRANCH MINE-SOUTH	7. Mine to 46-08436 (Contractor)
8. Condition or Practice	8a, Written Notice (103g)
Section located in the last open brearule to be an average of 66 inches wa	
Management engaged in aggravated	i conduct constituting more than ordinary antable failure to comply with a mandatory
	· · · · · · · · · · · · · · · · · · ·
	See Continuation Form (MSHA Form 7000-3a):
9. Violation A. Health B. Section Safety V of Act Other	C. Part/Section of Title 30 CFR 75.1710-1
Section II—inspector's Evaluation	
10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely: Unlik	Reasonably Likely Highly Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays Lost Workdays	orkdays Or Restricted Duty ☑ Permanently Disabling ☐ Fatal ☐
C. Significant and Substantial: Yes ☑ No ☐	D. Number of Persons Affected: 001
11. Negligence (check one) A. None 🗌 B. Low 🔲 C	. Moderate ☐ D. High ☑ E. Reckless Disregard ☐
12 Type of Action 104(d)(2) 13. Type of Issua	ince (check one) Citation Order 🗹 Safeguard Written Notice
14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice	E Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15 Area or Equipment The Fairchild scor	op, Serial No. 337-196, located on the
064 MMU.	py double not do!r 150y 2000000 on dis
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock	
Section III-Termination Action	
17. Action to Terminate	
18. Terminated A. Date Mo Da Yr 10/21/2009 B. Time (24 Hr. Clock	1340
Section IV-Automated System Data	
19. Type of Inspection (activity code) E01 20. Event Number 6288652	21. Přímaty of Milt

MSHA Form 7000-3. Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about receral agency enforcement actions. The Ornbudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 and Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to tile a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

22. Signature

23. AR Number

24025

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Continuation				
Section ISubsequent Action/Continuation Data		. <u> </u>		
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da Yr 10/21/2009	3. Citation/ Order Number 8086908 - 01	i i i i i i i i i i i i i i i i i i i
4. Served To Rick Foster (Mine Foreman)		5. Opera PERFO	ntor DRMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SO	OUTH	7. Mine	⁰ 46-08436	(Contractor)
Section II—Justification for Action				

A canopy was provided for the Fairchild scoop serial No. 337-196.

						See Continuation Form
Section III-Subsequent Action Taken 8. Extended To A. Date Me Da	Yr B. Time (24 Hr. Clock)		C Vacated	☑ D. Terminated	☐ E. Modified
Section IV-Inspection Data 9. Type of Inspection E01	10. Event Numb					
11. Signature		AR Number 24025	12. Date	Mo Da Y _E 10/21/2009	13. Time (24 Hr. C	eck)

MSHA Form 7000-3a, Mar 85 (revised)

POSSIBLE KNOWING/WILLFUL VIOLATION	REVIEW FORM
(Confidential, Pre-decisional Information)	

U.S. Department of Labor Mine Safety and Health Administration

|--|--|

MINE ID 4608436 MSHA OFFIC	20401
MINENAME LAPSE BIG BRANCH MINE-South	· · · · · · · · · · · · · · · · · · ·
COMPANY NAME DECTOR MONGO COOL COMPANY	
Citation/Order No. 8086967	Date 10-21-69
CCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	. ye. Here's sales
 Did the condition or practice cited create the presence of a high degree of risk to the a) Who was exposed to the hazard? (Name and Occupation) 	e health and/or safety of miners? Yes
OMAR Lowis, Michael JACquez, D	MILL Williams, SIC OPERATOR
b) How were they exposed to the hazard? No protection prou	idad for the operator
c). When and over what period of time did the exposure occur? Section W/O Coupoies Provided.	began PROBUCTION 10-19-09
d) Is this first hand information? Yes No	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts of a). Who had this knowledge? (Name and Title) The ball to have a Conoc	
b) How was this knowledge evidenced? Openators on the Sec	
c) is this first hand information? Yes No	
It not who provided the information? IName and Decupation)	
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	ICH And we Codeson at run
3. Any other pertinent information: No tokebe 6546 Sock	780
3. Any other perfinent information: No whole out to Society Capt May Capt wont Belief The ax	211 an world , Sofuzoon &
Any other pertinent information: No whole out a South CARY MAY GUP WOOT Behind Mo ox CARY MAY GUP WOOT BEHIND MO OX CARY MAY GUP WOODE WOODE Hall IND	211 an world , Sofuzoon &
Any other pertinent information: No whole 604 to Society CHRY May Coupt wont Believe Me and Challed No whole wooder 42" INLy VSPECTOR'S CONCLUSION:	2 Macsudad, Show me his The Section Dumping Point.
3. Any other pertinent information: No whole 600 the South Chief May Coup wont Beline Me or Chief May Coup wont Beline Me or Chief May Coup wont Beline May NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful viole	Show me his The Section Dumping Point. ation of the Act or mandatory health or safety standard? Yell No.
Any other pertinent information: No whole 60 He Seath Child May (Sup) wont Behald Me or Child May (Sup) wont Behald Me	2 Macsudad, Show me his The Section Dumping Point.
Any other pertinent information: No whole 65 4 50 60 60 60 60 60 60 60 60 60 60 60 60 60	S moo subsol, Show me his / His Section Dumping Point. ation of the Act or mandatory health or safety standard? Yes No. Date: 10-29-00
Any other pertinent information: \[\lambda \text{Cup}	Show me his The Section Dumping Point. ation of the Act or mandatory health or safety standard? Yell No.
Any other pertinent information: \[\(\lambda \) \(\lam	A moosubed, Show me his The Section Dumping Point. ation of the Act or mandatory health or safety standard? Yes No. Date: 10-29-09
Any other pertinent information: No whole for the South Chart New (Sup) wont Behind the one Chart New (Sup) wont Behind the one NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the processor	A monsulable, Show me his The section Dumping Point. ation of the Act or mandatory health or safety standard? Yellow Date: 10-29-09 Date: 10-29-09
Any other pertinent information: No Colors 65-11-6 50-65-11-6	A monsulable, Show me his The section Dumping Point. ation of the Act or mandatory health or safety standard? Yellow Date: 10-29-09 Date: 10-29-09
Any other pertinent information: Compared Compared	A moo subsolution of the Section Dumping Point. Attended to mandatory health or safety standard? Yes No. Date: 10-20-00 Date: 10-20-00 Date: 10-20-00 Date: 10-20-00
Any other pertinent information: Charles Mo Long Mo Long The Control	Date: 10/29/6/
Any other pertinent information: Compared Compared	A moo subsolution of the Section Dumping Point. Attended to mandatory health or safety standard? Yes No. Date: 10-20-00 Date: 10-20-00 Date: 10-20-00 Date: 10-20-00
Any other pertinent information: Charles No Works upon the Charles No Willful violation of the Charles No William	Date: 10/30/02 Date: 10/30/02 Date: 10/30/02
Any other perlinent information: Comparison Comparis	Date: 10/30/02 Date: 10/30/02 Date: 10/30/02
Any other perlinent information: Comparison Comparis	Date: 10/30/02 Date: 10/30/02 Date: 10/30/02
Any other perlinent information: Carbon No who be was be that I who will and the personal period of this review, does this appear to be a possible knowing and/or willful viole inspector AR Number: 1402 5 Signature	Date: 10/30/02 Date: 10/30/02 Date: 10/30/02
Any other pertinent information: No No No No No No No N	Date: 10/30/02 Date: 10/30/02 Date: 10/30/02

000 VISA 14-cr-00244 Document 311-4 File	d 08/18/15 Page 133 of 156 PageID #: 5780
Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 0855	3. Citation/ Order Number 8086907
4. Served To	5. Operator
Tim Williams (Foreman)	PERFORMANCE COAL COMPANY
6, Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition or Practice	8a; Written Notice (103g)
Section located at the section dumping measured with a standard rule to be an with a cab or canopy. The entry that the astandard rule to be 46 inches. This 10/16/2009 and began production on 10/Management engaged in aggravated	average of 52 inches was not provided he shuttle car was located measured with section was moved from a low seam on 19/2009. Conduct constituting more than ordinary table failure to comply with a mandatory
	See Continuation Form (MSHA Form 7000-3a)
Safety of Act Other	Part/Section of title 30 CFR 75.1710-1
Section II-Inspector's Evaluation	
10. Gravity: A. Injury or illness (has) (is): No Likelihood [Unlikely [Reasonably Likely Highly Likely Occurred
B. Injury or illness could reasonable be expected to be No Lost Workdays Lost Workdays	lays Or Restricted Duty 🗹 Permanently Disabiling 🔲 Fatal 🗍

Safety of Act		Title 30 CFR	75,1710-1	·
Section II-Inspector's Evaluation				
10. Gravity:	:	Tarrest Commence		and the state of t
A. Injury or illness (has) (is): No Likelihood 🔲	Unlikely [Reasonably Likely	Highly Likely ☐ Oc	curred [
B. Injury or Illness could rea- sonably be expected to be: No Lost Workda	ays Lost Work	days Or Restricted Duty	Permanently Disabiling:] Fatāļ ∏
C. Significant and Substantial: Yes 🗸	No. []	7 1-4	D. Number of Persons Affect	ned: 001
11. Negligence (check one) A. None	B. Low C. N	loderate 🗍 D. Flig	h 🗹 E. Reckless Dis	regard 🔲
12. Type of Action 104(d)(2)	13. Type of Issuance	e (check one) Citation [Order 🗸 Safeguard] Written Notice ☐
14. Initial Action A. Gitation ☐ B. Order ☑ C. Safeguard ☐ D	D. Written Notice	E. Citation/ Order Number	8082692 F. Date:	Mo Da Yr 03/17/2009
15. Area or Equipment The Joy 065 MMU.	shuttle car	, Serial No. P	M 0158, located	on the
16. Termination Due A. Date Mo Da Yr	B. Time (24 Hr. Glock)			
Section III-Termination Action				The state of the s
17. Action to Terminate				
				ł
10/21/2009	(24 Hr. Clock	1312		
Section IV-Automated System Data				
19. Type of Inspection (activity code) E01 20. Event Number	6288652	21. Primary or Mill		
22 Signature ()			23. AR Number	24025

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fatroess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fatroess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247); or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 and Street, SW. MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a freating before the Federal Mine Safety and Health Review Commission.

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Mine Gitation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration					tion 💮
Section I-Subsequent Action/Continuation Data						
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo 10/	Da 21/200	Yr)9	3. Citation/ Order Number 8086907	-01
4. Served To Rick Foster (Mine Foreman)				5. Oper PERF	ator DRMANCE COAL COMPA	MY
6. Mine UPPER BIG BRANCH MINE-SO	OUTH			7. Mine	46-08436	(Contractor)
Section II-Justification for Action				····		

A canopy was provided for the Joy shuttle car Serial No. PM 0158.

	-				•	See Continuation Form
Section III-Subsequent Action Taken						-
8. Extended To A. Date Mo Da	Yr B. Time (24 Hr. Clack)		C. Vacated	D. Terminated	☐ E. Modified
Section IVInspection Data						
9. Type of Inspection E01	10. Event Num	oer 6288652				
11. Signature Quesce	·2	AR Number 24025	12. Date	Mo Da Yr 10/21/2009	13. Time (24 Hr. C 1312	ock)

MSHA Form 7000-3a, Mar 85 (revised)

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Confidential, Pre-decisional Information)	M	ine Safety and Health Administration	
MINE ID 4608436	MSHA OFFICE	20401	
MINENAME UPPER BIG BRANCH MINE	South		
COOL PERFORMANCE COOL			
		10-21-09	-
Sitalion/Order No. 8086106	Date		
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an inju	y? YES□	NO If yes: Fatal? No	on-fatal?
REVIEW CRITERIA: (Affach supplemental Information if needed)			
. Did the condition or practice cited create the presence of a high of a) Who was exposed to the hazard? (Name and Occupation)			
OMAR Lowis, JARQUEZ Mic			
b) How were they exposed to the hazard? Open Alix	mu DIR B.	hout Protection to I from	n the
ROOF OR RIBE. c) When and over what period of time did the exposure occur?	Čardine Main	B Change to the Court	
10-16-09, PRoduction baga	And the second s		<u> </u>
d) Is this first hand information? Yes No I			
2. Did the operator or agent have actual knowledge, or reason to k	now, of the facts or condition	ons constituting the violation? Yes No.	
a) Who had this knowledge? (Name and Title) Thin will			
b) How was this knowledge evidenced? Section TS	0000 42" IN	by Section Dumping Point	
and the state of t			
c) is this first hand information? Yes No life of who provided the information? (Name and Occupation)			
If not, who provided the information? (Name and Occupation)		11th andied Sodiesoon	
If not, who provided the information? (Name and Occupation) 3. Any other parlinent information: <u>No いんの</u> を つっそ	LLE ERCHOU !		
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: No Where out GARY MAY ALSO Measured the	LLE ERCHOU !		24
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: No where out GARY THEY ALSO MERSUAGE H Where where has had a H2 !!	LLE ERCHOU !		
If not, who provided the information? (Name and Occupation) 3. Any other perfinent information: No where out CARY May Miso Measured the Care out Where the control of th	les section 1 Bara thomas	Condust Measure An	
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If not, who provided the information? (Name and Occupation) 3. Any other perlinent information: No where out CARY Way Also Mersuber H Lukere was a H211 INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing inspector AR Number: 24025 Signature:	tts section to hotalth and	he Act or mandatory fiealth or safety standard?	
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Mine Cita	ition/Order				tment of La and Health	i bor Administration		
Section I-Vio	lation Data	· · · · · · · · · · · · · · · · · · ·					A symbol some	
1. Date	Mo Da Yr 10/21/2009	2. Time (24 Hr. Clock) 0835			•	3. Citation/. Order Number	808690	16
4. Served T	45			5. Operator	e amo mo filipe			
	iams (Foreman)				IANCE CO	AL COMPANY	<u> </u>	
	BIG BRANCH MI	NE-SOUTH	, , , , , , , , , , , , , , , , , , ,	7. Mine ID	46-08430	5		(Contractor)
	n or Practice	tle car Ser					8a. Written N	
measur with a a stan 10/16/	red with a s cab or car idard rule t 2009 and be lanagement e gence, this	in the No. 3 standard rulicopy. The encode 77 incodes an product engaged in a violation is	e to be a try that hes. This ion on 10 ggravated	n average the shutt section 0/19/2009. I conduct	of 60 le car ; was move constitu	inches was was locate ed from a iting more	not pred measu Iow sea	rovided ured with um on ordinary
DEDITION	ALL CLUB	_						
		*	\$ ->		ė	•	,	
					200			
						See Continuation	n Form (MSHA I	Form 7000-3a)
9. Violation	Safety 🗸 Other 🗌	B. Section of Act		C. Part/Section of Title 30 CFR		75.1710-1		
	spector's Evaluation		-					
10. Gravity: A. Injury	or Illness (has) (is):	No Likelihood	Unlikely [Reasonably Li	kely 🗸	Highly Likely 🔲	Occurre	d [] ;
B, İnjury sənab	or illness could rea- bly be expected to be:	No Lost Workdays	☐ Lost Wo	orkdays Or Restricte	ed Duty 🗸	Permanently Dis	abling 🗌	Fatal
C, Signif	ficant and Substantial:	Yes 🗹 No			-	D. Number of Pers	ons Affected:	001
11. Neglige	nce (check one)	A. None 🗌 💢 B. 1	Low 🗌 C	.Moderate 🔲	D. High K	Z E. Red	less Disregar	f 🔲
12. Type of	Action 104(d)(2	i .	13. Type of Issua	nce (check one)	Citation 🗍	Order ✓ Safe	guard 🔲 🛝	Written Notice
14. Initial Ad A. Citatio		C. Safeguard [D. V	Vritten Notice	E. Citation/ Order Numb	per 80	82692	F. Dated	Mo Da Yr 03/17/2009
15. Area or	Equipment	The Joy s	huttle ca	r, Serial	No. PM	0163, 100	ated on	the
065 MM	io.	 .		e ja energen en e				•
16. Termina	ation Due A. Date	Mo Da Yr B. 7	ime (24 Hr. Clock	9				
Section III-Te	ermination Action						-	
17. Action to	o Terminale		- :					
	en e	3						
18. Termina		a Yr 1/2000 B. Time (24	Hr. Clock	1310	,			

MSHA Form 7000-5, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency a responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409-3rd Street, SW MC 2120, Washington, DC 20416. Please note; however, that your right to life a comment with the Ombudsman is in addition to any other rights you may have including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

21. Primary or Mill

23. AR Number

24025

6288652

10/21/2009

E01

20. Event Number

Section IV-Automated System Data

19. Type of Inspection

(activity code)

22. Signature

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Mine Citation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration			on 💮	
Section I-Subsequent Action/Continuation Data			- 1 		
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da 10/21/20	09 Yr	3. Citation/ Order Number 8086906	- 01
4. Served To Rick Foster (Mine Foreman)			5. Opera PERFO	tor DRMANCE COAL COMPAI	NY
6. Mine UPPER BIG BRANCH MINE-SO	OUTH		7. Mine l	46-08436	(Contractor)
Section II-Justification for Action					

A canopy was provided for the Joy shuttle car Serial No. PM 0163.

A*		5	**				
			·		· · · · · · · · · · · · · · · · · · ·		See Continuation Form
Section III-Subsequent Action Taker		· · · · · · · · · · · · · · · · · · ·					
3. Extended To A. Date Mo	Da '	Yr B. Time (2	4 Hr. Clock)		C. Vacated	D. Terminated	E. Modified
Section IV-Inspection Data	·						
Type of inspection E01	10). Event Numbe	6288652				
11. Signature			AR Number 24025	12. Date	Mo Da Yr 10/21/2009	13: Time (24 Hr. Clos 1310	

MSHA Form 7000-3a, Mar 85 (revised)

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POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration

MINEID 46.08436 M	SHA OFFICE 20401 M+ HO	<u>>C </u>
WINENAME Upper Big Branch		
COMPANY NAME Performance Coal Co.	e mante e segon de la companya de l	The second section of the second seco
Citation/Order No. 816.332.4	Date 12/17/09	
		·
AGCIDENT INFORMATION: Was this violation associated with an accident which caused an injury?	YES NO P	yes: Fatal? \(\text{Non-fatal?} \)
REVIEW CRITERIA: (Attach supplemental information if needed)		المنين تاريد
. Did the condition or practice cited create the presence of a high degree	of risk to the health and/or safety of miners?	Yes No L
Who was exposed to the hazard? (Name and Occupation)	en e	
the last that the last the las	ine bors LACY STEWAN	and the second of the second o
	s Sections was not the	veled in the Entire
c) When and over what period of time did the exposure occur? _ No		
d) Is this first hand information? Yes No No 11 not, who provided the information? (Name and Occupation) 4	by Stewart Poreboss	
2. Did the operator or agent have actual knowledge, or reason to know, o	the facts or conditions constituting the viola	
a) Who had this knowledge? (Name and Title) GAAY MAY 5	· ·	eter Mine Foreman
b) How was this knowledge evidenced? Com A fer Signal	Enchair books	<u> </u>
c) Is this first hand information? Yes \(\begin{align*} \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \		Karata and a management of the second of the
	granomas yelismikin silv. at yikimi kiri, at yikimi kiri at yanga mayikin yanga mayiki	<u> </u>
If not, who provided the information? (Name and Occupation)		
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:		
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION:	r vällful violationset the Art or mandator (her	illih av automi stondoni 2 Vas T Atolle
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/o	willful violation of the Act or mandatory hea	
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/o	* Lynn	lith or safety standard? Yes No €
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or inspector AR Number: 24329 Supervisor: Do you agree with the inspector's conclusion? Yes IM	r willful violations of the Act or mandatory hea	Date: 12/50/09
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/o Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes IM Signature: Signature:	* Lynn	
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If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes ID Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation.	No ETAIL PRO-	Date: 12/50/09
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/off inspector AR Number: Supervisor: Do your agree with the inspector's conclusion? Yes IM Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: (A or C from the	No ETAIL PRO-	Date: 12/50/09
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes ID Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: C. No furth Signature: A signature: A conduct a special investigation.	No ETAIL er action: elist above)	Date: 1-20-10
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes ID Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Accommendation: Accommendati	No ETAIL PRO-	Date: 1-20-10
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/of inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes ID Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: Signature: Signature: Signature: Supervisory Special Investigator: Recommendation: Signature: Signature: Supervisory Special Investigator: Recommendation: Signature: Supervisory Special Investigator: Signature: Supervisory Special Investigator: Supervisory Special Investigator	No ETAIL er action: elist above)	Date: 1-20-10 Date: 1-21-10
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If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes IN Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: District Manager, Action Decision: District Manager, Action Decision: Advantage of the first above	No ETAIL er action: elist above)	Date: 1/22/10 Date: 1/22/10
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/o inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes IN Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: District Manager Action Decision: District Manager Action Decision: Signature: District Manager Action Decision: Action Deci	No ETAIL er action: elist above)	Date: 1/22/10 Date: 1/22/10
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes ID Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation: Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: District Manager: Action Decision: District Manager: Action Decision: District Manager: Action Decision: And Occupation: (A or C from the list above)	No ETAIL er action: list above)	Date: 1/22/10 Date: 1/22/10
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes IN Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: District Manager, Action Decision: District Manager, Action Decision: Advantage of the first above	No ETAIL er action: list above)	Date: 1/22/10 Date: 1/22/10
If not, who provided the information? (Name and Occupation) Any other pertinent information: NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/of inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes IM Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: District Manager, Action Decision: District Manager, Action Decision: ADDITIONAL COMMENTS OR REMARKS: ADDITIONAL COMMENTS OR REMARKS:	eraction: Estabove) Om the list above) Latter does a maestication	Date: 1/22/10 Date: 1/22/10

Aline Citation/Order	U.S. Department of Labor Mine Safety and Health Administra	17/18/9/WH
ection I-Violetion Data specific susceptibles		
Date Mo Da Yr 2 Time (24 HrzGlock) 12/17/2009 1130	3. Citation/ Corder No	imber 8103324
. Şerved To Jary May; Superintendent	5. Operator PERFORMANCE COAL COMP	and the second s
Mine	7. Mine 10 46-08436	
JPPER BIG BRANCH MINE-SOUTH Condition of Practice.	The state of the s	(Contractor 8a Written Notice (103g)
in examination by a certified persons h		
banel (non pillar panel) off of the right examination at evaluation points 60 rentilation map, have not been conducted the the areas have not been recorded book for the last six months.	and 61, as designated d. The last dates fou	on the nd were 4/15/2009
•		
\$	•	
	Soo Con	inuation Form (MSHA Form 7006-3a)
. Violation A. Health B. Section C. F	ari/Section of	mineraria outi faminari otini a oromeli
	itle 30 CFR 75.364	H(a)(1)
ection II-Inspector's Evaluation		
0. Giavity:		* <u></u>
A. Injury or Illness (has) (ls): No Likelihood Unlikely 🔽	Reasonably Likely Highly Likely	Occurred
Solitory 20 Capacita Co.		ly Disabling Falal
C. Significant and Substantial: Yes : No V	D. Number of	Persons Affected: 008
1. Negligence (check one) A. None B. Low C. Mc	oderate ☐ D.High ☑ E	Reckless Disregard []
2. Type of Action 104(d)(2) 13. Type of Issuance		Safeguard Written Notice
4. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E: Citation/ 8082692 Order Number	F. Dated Mo Da Yr 03/17/200
5. Area or Equipment The right return off of th	e No. 3 section.	racing and a grant grant of the second grant o
6. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)		

MSHA Form 7007-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1995, the Small Business Administration has established a National Small Business and Agriculture Regulatory Onbudsinan and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-855-REG-FAIR (1-685-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a continent with the Ombudsman is in addition to any other rights you may have, including the right to contest of all ones and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

1300

21. Primary or Mill

- Si trgat is

18. Terminated

A. Date

Section IV-Automated System Data

19. Type of Inspection (activity code)

MoDa Yr

12/17/2009

20, Event Number

B. Time (24 Hr. Clock

6288652

951000-VHSUSELA14-cr-00244 Document 311-4 Filed 08/18/15 Page 140 of 156 PageID #: 5787

Confidential, Pre-decisional Information)	Mine Safety and Health Administration
MINE ID 44 68436 MSHA OFFICE	20401 Mr Hope
· ·	
MINENAME Upper Big Brouch	
COMPANY NAME PEAGA MONICE COAL CO.	
Citation/Order No. 8685240 Del	le 1214/69
AGCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES REVIEW GRITERIA: (Attach supplemental information if needed)	NO If yes: Fatal? Non-fatal?
Did the condition or practice cited create the presence of a high degree of risk to the ha) Who was exposed to the hazard? (Name and Occupation)	
Fine boxs Charlie Semenske; Fenemens (Samue)	Mines woming in Revenue work Section
b) How were they exposed to the hazard? Examina hay / Rehabilital	hav walk being anducted in 12" to 48"
of Clark Worky Water o) When and over what period of time did the exposure occur? At last	when he are a directly to The references
Sorchy Director Reported in Fireboss brase	and Co. Broads or water broads
d) Is this first hand information? Yes Y No Y Secret Hage If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or co	Salara Sa
a) Who had this knowledge? (Name and Title) Euchett Hagar An	
b) How was this knowledge evidenced? Curly Signed books; 200	event want over water level recon
c) Is this first hand information? Yes V No	
If not, who provided the information? (Name and Occupation) Euclet	Harger supervolenden
3. Any other pertinent information:	
<u> and the state of /u>	
· · · · · · · · · · · · · · · · · · ·	
NSPECTOR'S CONCLUSION:	
Based on this review, does this appear to be a possible knowing and/or willful violation	on withe Act or mandatory health or safety standard? Yes☐ No 🕮
Inspector AR Number: 2432 G Signature:	pate: 12/30/09
Supervisor: Do you agree with the inspector's conclusion? Yes No Min	
Signature: Manual Moore	Date: /-20-/0
POSSIBLE RECOMMENDED ACTIONS	
A. Conduct a special investigation.	
Assistant District Manager: Recommendation: (A or C from the list above)	
Signature: Musik Z Lug	Date: 1-21-10
Supervisory Special Investigator: Recommendation (Apr C from the list about	ove)
Signature: Land 2 Hacker	Date: // >2/10
District Manager: Action Decision 1 (A or C from the list above)	1/200
Signature: Child I tuding	Date: 1/22/20/0
ADDITIONAL COMMENTS OF REMARKS: They had a trans	wes not meet
the cuterca for a 116	in Destination
· · · · · · · · · · · · · · · · · · ·	<u> </u>
CASE ASSIGNMENT INFORMATION:	<u> </u>
CASE ASSIGNMENT INFORMATION: Investigation Case No.	Date Assigned
	Date Assigned 10 No.

IST000-VHSWELL-14-cr-00244 Document 311-4 Filed 08/18/15 Page 141 of 156 PageID #: 5788

Mino Obotton/Order

12/11	9 MH
₽ ₽	N//

Wille-Ollabori Citaet	Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 12/14/2009 0731	3. Citation/ Order Number 8085240
4. Served To	5. Operator
Jim Walker; Safety Director	PERFORMANCE COAL COMPANY
8. Mine	7. Mine ID 46-08436
UPPER BIG BRANCH MINE-SOUTH 8. Condition or Practice	(Contractor) 8a. Written Notice (103g)
	ely traveled in its entirety due to dark-
murky water measuring from 12 inches at 73 to break 134. The mine floor in this hazards due to unleveled bottom due to	nd up to 48 inches in depth from break Is area contains slipping and tripping heaving of the mine floor, extraneous
materials and slick rocks. This condition and falling hazards in water in depths drowning. This citation is being issued citation number 8085239.	up to 48 inches that could result in
The state of the s	
	the state of the s
9. Violation A. Health B. Section C. F	See Continuation Form (MSHA Form 7000-3a) Part/Section of
	ille 30 CFR 75.364(b)(2)
Section II-Inspector's Evaluation	
10. Gravity:	Barrier H. M. Warren C.
A. Injury or Illness (has) (is): No Likelihood Unlikely B. Injury or Illness could rea-	Reasonably Likely . Highly Likely . Occurred .
sonably be expected to be: No Lost Workdays Lost Workd	ays Or Restricted Duty Permanently Disabling Fatal 🗹
C, Significant and Substantial: Yes ☑ No □	D. Number of Persons Affected: 001
11, Negligence (check one) A. None D. B. Low D. C. Mo	oderate Ø D.High □ E.Reokless Disregard □
12. Type of Action 104(a) 13. Type of issuance	(check one) Citation Order Safeguard Written Notice
14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice	E Citation/ F. Dated Mo Da Yr Order Number
15. Area or Equipment	
16, Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	0800
Section III—Termination Action	
17. Action to Terminate	
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock	
Section IV-Automated System Data	And the Control of th
19: Type of inspection (activity code) E01 20: Event Number 6288652	21, Primary or Mill
22. Signature Level Sigman	23. AR Number 24329
TACITA CAME ZAND 2: Nacho townson. In approximate with the apple countries. Court De	iginges Remitston/Entercoment Estimose Art of 100% the Small Rusinese Administration has

instructions will be possible of the sinal business and proposed of the sinal business and some stabilished a National Small Business and Agriculture Regulatory Ombudaman and 10 Regional Faimess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudaman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudaman at Small Business Administration, Office of the National Ombudaman, 409-3rd Street, SW MC-2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudaman is in addition to any other rights you may have, including the right to contest citations and proposed genalties and obtain a heating before the Federal Mine Safety and Health Review Commission.

751000-VHSWed 14-cr-00244 Document 311-4 Filed 08/18/15 Page 142 of 156 PageID #: 578 Mine Citation/Order U.S. Department of Labor Continuation Mine Safety and Health Administration Section I-Subsequent Action/Continuation Data 1. Subsequent Action 1a. Continuation 2. Dated 3. Citation/ Mo Da Order Number 8085240 - 01 (Original Issue) \mathbf{Z} 12/14/2009 4. Served To 5. Operator PERFORMANCE COAL COMPANY Jim Walker; Safety Director 7. Mine ID (Contractor) 6. Mine 46-08436 UPPER BIG BRANCH MINE-SOUTH Section II-Justification for Action To Change From 2. Issue Time 07:31 19:31 Reason The wrong time was entered. See Continuation Form Section III-Subsequent Action Taken 8. Extended To A. Date B. Time (24 Hr. Clock) C. Vacated D. Terminated E. Modified Section IV-Inspection Data 9. Type of inspection POT 10. Event Number 6288652 Mo Da AR Number 12. Date Υî 13. Time (24 Hr. Clock) 11. Signature

24329

12/15/2009

1338

MSHA Form 7000-3a, Mar 85 (revised)

ESI000-VHSMet 14-cr-00244 Document 311-4 Filed 08/18/15 Page 143 of 156 PageID #: 5790

ine Citation/Order Continuation			epartment of L lafely and Healt	abor n Administration ///	1. i 11112ma	, (
Section I-Subsequent Action/Continuation Data	Service of the servic	, and 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1,			11	
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da Yr 12/14/2009	3, Citation/ Order Number	8085240 - 02		
4. Served To Gary May, Superintendent		5, Open PERF	1.1796	AL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SO	JUTH	7. Mine	id 46-0843	6	(Contractor)	and the second
Section II-Justification for Action						ere gat t
the mountain his	waa kalimaa	h lika anna	and secret il	and drop leading	an East M	

The operator has complied with the approved ventilation revision for the #1 Section Return. Travel way in return has been rerouted around water and slip trip hazards per the new revision.

Section III-Subsequent Action Taken		<u> </u>				See Continuation Form
8. Extended To A. Date Mo D	a Yf 8. Tim	e (24 Hr. Clock)		☐ C. Vacated	D. Terminated	☐ E. Modified
Section IV-Inspection Data 9. Type of Inspection 1301	10. Event No	imber 6288653	· · · · · · · · · · · · · · · · · · ·			to the second se
11. Signature 67/	1 00	AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Cic	iok)
VISHA Form 7000-Sa, Mar 85 (revised)	gall	24320		12/30/2009	1326	

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



MINE ID 46-08436 MSHA OFFICE MT.	Hope
MINENAME Uppor BIG BRANCH MINE . SOUTH	*
COMPANY NAME PSERVORM ANCE CORE CO.	· · · · · · · · · · · · · · · · · · ·
Citation/Order No. 8087709 Date 1/7/	10
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES NO	If yes: Fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	·
1. Did the condition or practice cited create the presence of a high degree of risk to the health and/or safe a) Who was exposed to the hazard? (Name and Occupation)	
GREG BEOCK, BOB GRIFFITH, JOS MARRIM, EDDIS MOONING, ROWALD MAYOUR, HOWA	a de la companya de l
b) How were they exposed to the hazard? Mrn on Storion pouce por nave	
ESCAPSWAY OFF OF THE SICTION (MINU 029-0)	
c) When and over what period of time did the exposure occur?	DRIVE TO CITATION
d) Is this first hand information? Yes No	
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituted who had this knowledge? (Name and Title) Treey More , Miles Foreman	uting the violation? Yes⊠ No□
6) How was this knowledge evidenced? Me. Mages STATED HI WAS AWARES	OK COUNTION
If not, who provided the information? (Name and Occupation) 3. Any other pertinent information:	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or n	nandatory health or safety standard? Yes⊟ No⊠
Inspector AR Number: 24675 Signature: L. K.5	Date: ////0
Supervisor: Do you agree with the inspector's conclusion? Yes No 1	
Signature: Signature:	Date: /-20-10
POSSIBLE RECOMMENDED ACTIONS:	
A. Conduct a special investigation. C. No further action.	
Assistant District Manager: Recommendation: (A of C from the list above) Signature:	Date: 1 - 29-10
Supervisory Special Investigator. Recommendation C. LA or C from the list above)	Date: 1 - 29-10
Signature: Land Allactes	Date: 2/1/10
District Manager: Action Decision (Afor C from the list above) Signature:	Date: 2/1/2010
ADDITIONAL COMMENTS OR REMARKS: "Leasonable Likely"	X occur
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	1D No.

\$\$1000-VH\$Wed\$14-cr-00244 Document 311-4 Filed 08/18/15 Page 145 of 156 PageID #: 5792

Mine Citation/Order

U.S. Department of Labor Mine Safety and Health Administration

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11/10	
1/4	

Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 01/07/2010 0940	3. Citation/ Order Number 8087709
4. Served To	5. Operator
Terry Moore, Mine Foreman	PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
8. Condition or Practice	8a. Written Notice (103g)
The operator is not following the Ver	
District Manager on the No.1 section (N	
direction as shown on the approved map,	
section which is used as the primary es	
to use to escape in fresh air in emerge	
reversed with air flow going outby. In	
section would not have fresh air in the	
foreman, stated he was aware of this co	
approximately 3 weeks. Mr. Moore engage	
more than ordinary negligence in that h	
violation is an unwarrantable failure t	
and the second s	
	See Continuation Form (MSHA Form 7000-3a)
nas sun penetre an il film differenzia i i m ili i ni cultification an il mili i di cultification an il mili i di cultification an il mili i di cultification and cultificati	art/Section of
Safety ✓ of Act T	ile 30 CFR 75.370(a)(1)
Section II-Inspector's Evaluation	
10, Gravity:	
A. Injury or Illness (has) (is): No Likelihood Unlikely U	Reasonably Likely Highly Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays . Lost Workd	ays Or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☑
C. Significant and Substantial: Yes ☑ No □	D. Number of Persons Affected: 015
11. Negligence (check one) A None B B Low C C. Mc	oderate. ☐ D. High ☐ E. Reckless Disregard [2]
12. Type of Action 104(d)(2) 13. Type of Issuance	
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Wütten Notice ☐	E Citation/ 8082692 F. Dated Mo Da Yr Order Number 03/17/2009
15 Area or Equipment The No.1 section and outby	r areas using this primary escapeway.
The second secon	
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section III—Termination Action	
17 Action to Terminate The operator opened regula	itors to put air flow as shown on the
approved map.	and the property of the second
18. Terminated A. Date Mo Da Yr 01/07/2010 B. Time (24 Hr. Clock 1	230 /
And the second of the second o	the state of the s
Section IV Automated System Data	
19. Type of inspection (activity code) E01 20. Event Number 6286108	21. Primary or Mill
19. Type of inspection 20. Event Number 62961.09	21. Primary or Mill 23. AR Number 24675

MSHA Form 7000/3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor



Mine Safety and Health Administration

		Hope	
MINENAME Upper BIG BRANCH MINE - SO	were		
COMPANY NAME PRECORMANCE CORE CO		43	
Citation/Order No. 80877/6	Date	10.	
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? Y	res□ No.[X]	If yes: Fatal?	Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)		. 1	
Did the condition or practice cited create the presence of a high degree of ris a). Who was exposed to the hazard? (Name and Occupation)	k to the health and/or safet	y of miners? Yes	No 🗵
MISH ON LONGWICE SECTION (MANY -C	150-0)	···	
b) How were they exposed to the hazard? Resumen Ain a WITH Air Connecur Could to Fact.	ims Eurami	e Sycamopacy E	scopeway
c) When and over what period of time did the exposure occur? Ar &	AST Z HOURS	paien to Cir.	ATION
d) Is this first hand information? Yes X No \(\bigcirc\) If not, who provided the information? (Name and Occupation)		Commence of the contract of th	
Did the operator or agent have actual knowledge, or reason to know, of the Who had this knowledge? (Name and Title) ** ** *** **************************			Na□
b) How was this knowledge evidenced? Acres Francisc our	MOUT CONDITION	the second of the second secon	no v
c) Is this first hand information? Yes No M. If not, who provided the information? (Name and Occupation)	copie or moure	s and He would l	overer it.
	Moses, M.H.	Koasman	
3. Any other pertinent information:	Mooks, Misse	Voasmad	
	Moores, Misse	Foresman	
3. Any other pertinent information: INSPECTOR'S CONCLUSION:			
3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will		andatory health or safety stand	lard? Yés No ⊠
3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will Inspector AR Number: 24675 Signature:	ful violation of the Act or ma		lard? Yes⊡ No ⊠
3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will	ful violation of the Act or ma	andatory health or safety stand	lulia
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS:	ful violation of the Act or ma	andatory health or safety stand	lulia
3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No. Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further actions:	ful violation of the Act or ma	andatory health or safety stand	lulia
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS:	ful violation of the Act or ma	andatory health or safety stand	lulia
3. Any other pertinent information: INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes II No Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Supervisory Special Investigator: Recommendation: (A or C from the list Supervisory Special Investigator: Recommendation: (A or C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator: Recommendation: A for C from the list Supervisory Special Investigator Special Investigat	ful violation of the Act or ma	andatory health or safety stand Date:	lulia
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will inspector AR Number: 246.75 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No. Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further at Assistant District Manager: Recommendation: (A or C from the list Signature:	ful violation of the Act or ma	andatory health or safety stand Date: Date:	lulia
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes III No Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special investigator: Recommendation: After C from the list Signature:	ful violation of the Act or ma	andatory health or safety stand Date:	lu lio_
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes III No Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Supervisory Special Investigator: Recommendation: Signature: District Manager: Action Decision: C (A or C from the list above)	ful violation of the Act or ma	Date: Date:	lulia
NSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will Inspector AR Number: 246.75 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further at Assistant District Manager: Recommendation: (A or C from the list Signature: Supervisory Special Investigator: Recommendation: (A or C from the Signature: District Manager: Action Decision: (A or C from the list above) Signature:	ful violation of the Act or ma	Date: Date:	lulia
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes I No Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: District Manager: Action Decision: C. No further and Assistant District Manager: Action Decision: Action Decision: C. No further and Assistant District Manager: Action Decision: C. No further and Assistant District Manager: Action Decision: A or C from the list above) Signature:	ful violation of the Act or ma	Date: Date:	lu lio_
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or will Inspector AR Number: Supervisor: Do you agree with the inspector's conclusion? Yes No Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Supervisory Special Investigator: Recommendation: Supervisory Special Investigator: Recommendation: District Manager: Action Occision: CA or C from the list above) Signature: ADDITIONAL COMMENTS OR REMARKS:	ful violation of the Act or ma	Date: Date:	1.10 1.20.10 2/1/10 11/2010

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Mine Citation/Order

U.S. Department of Labor Mine Safety and Health Administration

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Section I-Violation Data		
1. Date Mo Da Yr 2. Time (24 Hr. Gl 01/07/2010 131		3. Citation/ Order Number 8087710
4. Served To Terry Moore, Mine Foreman	5. Operator PERFORMANCE	COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08	436 (Contractor)
8. Condition or Practice		8a, Written Notice (103g)

The operator is not following the Ventilation Plan as approved by the District Manager. The return air course from the No.1 section at the overcast on the longwall belt, located 1 1/2 breaks outby survey spad No.22626 at break 11 was entering the secondary escapeway used by the men on the longwall section. This air is used to ventilate the face of the active longwall section (MMU 050-0). When checked with a Solaris gas detector, the detector showed 0.10% methane and 20.8% oxygen in the air going to the longwall face.

		See Continuation Form (MSHA Form)	7000-3a) 🔲
9. Violation A. Health B. Section Safety of Act Other	G. Part/Section of Title 30 CFR	75:370(a)(1)	
Section II-Inspector's Evaluation			·. <u>u</u>
10. Gravity: A. Injury or Illness (has) (is): No Likelihood Unlikely	Reasonably Likely	Highly Likely Occurred	بْدُ
R Injury or Illness could res-	st Workdays Or Restricted Duty	Permanently Disabling Fat	al 📝
C. Significant and Substantial: Yes 🕢 No 🗌		D. Number of Persons Affected: 0	10
11. Negligence (check one) A None B Low D	C. Moderate D. H	gh 📝 E. Reckless Disregard 🗍	
12. Type of Action 104(d)(2) 13. Type of	Issuance (check one) Citation	☐ Order 🗹 Safeguard 🗌 Writte	n Notice 🗌
14. Initial Action A. Citation B. Grder C. Safeguard D. Written Notice	E. Citation/ Order Number	0002072	o Da Yr 3/17/2009
on the longwall belt extending inb		wall section from brea	ak 11
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr.	Clock)		
Section III-Termination Action			
17 Addents Terminate A door was shut on the direction as shown on the approved		d air returned to	
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock	1314		the state of the s
Section IV-Automated System Data			
19, Type of Inspection (activity code) E01 20, Event Number 6286	1.08 21. Primary of Mil		
22. Signature Z 4560	· · · · · · · · · · · · · · · · · · ·	23. AR Number 24675	

MSHA Form 7000-3, Apr 08 (revised)
In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1986, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement actions of MSHA, you may call 1,886-REG-FAIR (1,886-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 and Street, SW MC 2120, Washington, DC 20416. Please note/however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Realth Review Commission.

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POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Cenfidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration



<u> Particular de la composition della composition</u>	
MINE ID 46-08436 MSHA OFFICE N	H, Hope
MINENAME Upper Big Brusch_ South	
COMPANYNAME Performance Coal Company	
Citation/Order No. 8090256 Date	1/11/2010
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES	NO X If yes: Fatal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	musin was
 Did the condition or practice cited create the presence of a high degree of risk to the health a Who was exposed to the hazard? (Name and Occupation) 	*
Jim Bowyer (Fire Boss) GARY MAY (5	egerin tendent)
Tim Bowyer (Five Boss) Gary May (5) b) How were they exposed to the hazard? They were downwind	l of the condition cited-
d) When and over what period of time did the exposure occur? 1100 +0 13	05 1/11/2010
d) Is this first hand information? Yes X No \ If not, who provided the information? (Name and Occupation)	
2. Did the operator or agent have actual knowledge; or reason to know, of the facts or conditional Who had this knowledge? (Name and Title) Gary May Superintend	
	instructed the section crew
c) Is this first hand information? Yes X No	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the property of the prope	ne Act or mandatory health or safety standard? Yes⊟ No 🗷
Supervisor: Do you agree with the inspector's conclusion? Yes IP No II	
Signature: James To Semplany	Date: 1/19/2010
POSSIBLE REFORMENDED ACTIONS: A. Conduct a special investigation. C. No further action.	
Assistant District Manager: Recommendation: (A or C from the list above)	
Signature: Smoot I filips	Date: 1-28-10
Supervisory Special Investigator Recommendation (A or C from the list above) Signature:	Date: 1/25/
District Manager: Action/Decision: (A or C from the list above)	Date: 1/29/2015
ADDITIONAL COMMENTS OR REMARKS:	'A date Help and
- Leavent Le	nuch hour.
CASE ASSIGNMENT INFORMATION:	
Investigation Case No.	Date Assigned
Investigator Assigned	ID No.

6\$1000*VH\$48c4\$14-cr-00244 Document 311-4 Filed 08/18/15 Page 149 of 156 PageID #: 5796 Mine Citation/Order U.S. Department of Labor Mine Safety and Health Administration Section I-Violation Data 1. Date Mo Da Yr 2. Time (24 Hr. Clock) 3. Citation/ 8090256 Order Number 1205 01/11/2010 5. Operator 4. Served To PERFORMANCE COAL COMPANY Gary May, Superintendent 6. Mine 7. Mine ID 46-08436 UPPER BIG BRANCH MINE-SOUTH (Contractor) 8a. Written Notice (103g) 8. Condition or Practice One bottom roller was running in accumulation of combustible materials, cross over bar was rubbing top of the bottom belt, and a 2nd bottom roller was stuck and the belt had rubbed a flat groove, one quarter inch deep into the roller, located on the #1' south belt, 'thirty feet outby break #5 and extended for a distance of thirty feet. Jim Bowyer (Fire Boss) said that Lacy Stewart (Fire Boss) had found this problem on Saturday January 09, 2010 and that the section crew had been working on it. At the time of this inspection no one was working on this section of belt. The operator engage in aggravated conduct by his failure to correct the known hazard before running the belt. This violation is an unwarrantable failure to comply with a mandatory standard, See Continuation Form (MSHA Form 7000-3a) A. Health 9. Violation B. Section C. Part/Section of Safety 🗸 Other Title 30 CFR of Act 75.1731(a) Section II-Inspector's Evaluation 10. Gravity. A. Injury or Illness (has) (is); No Likelihood 🗌 Unlikely | Reasonably Likely V Highly Likely | . Occurred [7] B. Injury or illness could rea-No Lost Workdays Lost Workdays Or Restricted Duty V Permanently Disabling Fatal 🔲 sonably be expected to be: C. Significant and Substantial: D. Number of Persons Affected: 002 Yes V No T 11. Negligence (check one) A. None B. Low C. Moderate D. High 🗸 E. Reckless Disregard 13. Type of Issuance (check one) Citation [Order 🗸 Safeguard [Written Notice 12. Type of Action 104(d)(2) E. Citation/ F. Dated Mo Da Yr 8082692 A. Citation B. Order M. C. Safeguard D. Written Notice Order Number 03/17/2009 15. Area or Equipment #1 South Belt Mo Da Yr 16. Termination Due A. Dale B. Time (24 Hr. Clock) Section III-Termination Action 17. Addon to Terminate Accumulation has now been cleaned up, the cross bar has now been

MSHA Form 7000-3; Apr De (revised). In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

lifted off of the top of the bottom belt, and the stuck roller has now been

6286108

1305

21. Primary or Mill

23. AR Number

B. Time (24 Hr. Clock

freed up, on the #1 South Belt

E01

· MoDa Yr

01/11/2010

20, Event Number

18. Terminated A, Date

(activity code)

Section IV-Automated System Data 19. Type of Inspection

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MINETO 46-08436 MSHA	
MINE ID 10 100	OFFICE MT HOPE
	ONNOE THE PROPERTY OF THE PROP
MINENAME Upper BIG BRANCH - SOUTH	
COMPANY NAME PERFORMANCE COAL CO	The state of the s
Citation/Order No. S087734	Date 2/18/2010
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? Y	ES NO ⊠ If yes: Fatal? ☐ Non-fatal? ☐
REVIEW GRITERIA: (Attach supplemental information if needed)	
 Did the condition or practice cited create the presence of a high degree of risl Who was exposed to the hazard? (Name and Occupation) 	k to the health and/or safety of miners? Yes [] No 🔀
BRANDON DAVIS FOREMAN MINE DICHARDS BOLISE	RICKY BROWN - ROLLER , JAMES LUCAS - MINES
b) How were they exposed to the hazard? Win ARE TRAVELLE	
c) When and over what period of time did the exposure occur? 2/15/16	- Zlisto 3 Days
d) Is this first hand information? Yes Mo II If not, who provided the information? (Name and Occupation)	
Did the operator or agent have actual knowledge, or reason to know, of the f	acts or conditions constituting the violation? Yes No
a) Who had this knowledge? (Name and Tille) BRANCE PAUS - FOREI	MAD TACK MARTIN T FOREMAN TOE COOK - FOREM
b) How was this knowledge evidenced? MEN was WORKING	
	and Carlos and Association of the Control of the Carlos and Carlo
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willi	a to the second of the second
	ul violation of the Act or mandatory health or safety standard? Yes \(\) No \(\) \(
Based on this review, does this appear to be a possible knowing and/or willinspector AR Number: 24675 Signature: Supervisor: Do you agree with the papector's conclusion? Yes P. No I	16 Sto Date: 2/23/10
Based on this review, does this appear to be a possible knowing and/or will! Inspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes P No [Signature: The Manual Manual Manual No. 1]	16 Sto Date: 2/23/10
Based on this review, does this appear to be a possible knowing and/or will! Inspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes P No [Signature: The Manual Manual Manual No. 1]	Date: 2/23/10 Date: 2/23/10
Based on this review, does this appear to be a possible knowing and/or willinspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes IP No [Signature: Signature: Conduct a special investigation: Conduct a special investigation: (Alor C from the list.)	Date: 2/23/10 Date: 2/23/10
Based on this review, does this appear to be a possible knowing and/or willinspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes P No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation:	Date: 2/23/10 Date: 2/23/10 Stion: 2
Based on this review, does this appear to be a possible knowing and/or willinspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes P No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further actions a special investigation. (A or C from the list:	Date: 2/23/10 Date: 2/23/10 Stion (2) Date: 3.1.10
Based on this review, does this appear to be a possible knowing and/or willinspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes P No I Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. Assistant District Manager: Recommendation: Signature: ACOIT C from the list:	Date: 2/23/10 Date: 2/23/10 Stion (2) Date: 3.1.10
Based on this review, does this appear to be a possible knowing and/or willinspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes IP No I Signature: POSSIBLE RECOMMENDED ACTIONS: A Conduct a special investigation. C. No further act Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: (A or C from the list: Signature: Supervisory Special Investigator: Recommendation: (A or C from the Signature: Action Decision) (A or C from the list above)	Date: 2/23/10 Date: 2/23/10 stion: 2 above) Date: 3.1.10
Based on this review, does this appear to be a possible knowing and/or willinspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes IP No [Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature: District Manager: Action Decision) Signature: District Manager: Action Decision Signature:	Date: 2/23/10 Date: 2/23/10 stion: 2 above) Date: 3.1.10
Based on this review, does this appear to be a possible knowing and/or willinspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes IP No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. Assistant District Manager: Recommendation: Signature: Supervisory Special Investigator: Recommendation: Signature:	Date: 2/23/10 Date: 2/23/10 stion: 2 above) Date: 3.1.10
Based on this review, does this appear to be a possible knowing and/or with Inspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes P. No [Signature:	Date: 2/23/10 Date: 2/23/10 stion: 2 above) Date: 3.1.10
Based on this review, does this appear to be a possible knowing and/or with Inspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes IP No [Signature:	Date: 2/23/10 Date: 2/23/10 stion: 2 above) Date: 3.1.10
Inspector AR Number: 24675 Signature: Supervisor: Do you agree with the inspector's conclusion? Yes P No I Signature: POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further act Assistant District Manager: Recommendation: (A or C from the list Signature: Supervisory Special Investigator: Recommendation: (A or C from the Signature: (A or C from the Signature: (A or C from the Signature: (A or C from the list above) Signature:	Date: 2/23/10 Date: 2/23/10 stion: 2 above) Date: 3.1.10

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Mine Citation/Order	U.S. Department of Labor
	Mine Safety and Health Administration
Section:1-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock)	3. Citation/
02/18/2010 1125	Order Number 9007/34
4. Served To	5. Operator
Berman Cornett, Safety	PERFORMANCE COAL COMPANY
6: Mine	7. Mine ID 46-08436
UPPER BIG BRANCH MINE-SOUTH	(Contractor)
8. Condition or Practice:	8á. Written Notice (103g)
The operator is not following the Roc	
District Manager. Located at the rehabi	litation area for the new Barrier
section, entries and crosscuts are from	a 20 1/2 feet to 24 feet in width.
Survey spads could not be found in the	area but according to the location of
	, and 62 break. Three entries are being
rehabbed in this area. Crosscut No.1 to	
	it No.2 to No.3 is 20 1/2 feet to 23 1/2
feet wide for a distance of 75 feet. The	
	ne No.2 entry is 21 feet to 24 feet wide
for a distance of 72 feet.	
	The second secon
	See Continuation Form (MSHA Form 7000-3a)
9. Violation A. Health B. Section C. F	Part/Section of
	itle 30 CFR 75.220(a)(1)
Section II-Inspector's Evaluation	
10. Gravity:	
A. Injury or Iliness (has) (is): No Likelihood Unlikely	Reasonably Likely Highly Likely Occurred
B. Injury or illness could rea- sonably be expected to be: No Lost Workdays Lost Workd	ays Or Restricted Duty Permanently Disabling Fatal 🗷
G. Significant and Substantial Yes ☑ No ☐	D. Number of Persons Affected: 003
11. Negligence (check one) A. None B. Low C. Mi	oderate D. High 🗹 E. Reckless Disregard 🗌
12. Type of Action 104(d)(2) 13. Type of Issuence	(check one) Citation ☐ Order ☑ Safeguard ☐ Written Notice ☐
14. Initial Action A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐	E Citation/ 8082692 F. Dated Mo Da Yr 03/17/2009
15 Area or Equipment The 3 entries and crosso	ruts on the rehabilitation area for the
new Barrier section.	smed ou file TemportingClod grew ter mie
16. Termination Due A, Date Mo Da Yr B. Time (24 Hr. Clock)	
and the control of t	
Section III—Termination Action	
Section IIITerminaton Action 17. Action to Terminate	
Section III-Termination Action 17. Action to Terminate	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions: The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street; SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

21. Primary or Mill

23, AR Number

24675

6286108

B. Time (24 Hr. Clock

Mo Da Yr

E01

20. Event Number

18. Terminated

22. Signature

(activity code)

A. Date

Section IV-Automated System Data 19. Type of Inspection

Section I - Subsequent Action/Confinuation Data 1. Subsequent Action Ta. Continuation 2. Date: (Original Content of Con	I Mo Da inal [saue) 02/18/2	010 5. Operat	3. Citation/ Order Number 8087734 - 01		
4. Served To Berman Cornett, Safety		010 5. Operat	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	<u> </u>	
Berman Cornett, Safety	\$				
6. Mine:		PERFO	MANCE COAL COMPANY		
UPPER BIG BRANCH MINE-SOUTH		7. Mine II	46-08436	(Contractor)	
Section II-Justification for Action	and the second				
Change From			To		
8. Condition Or Practice					
Reason To add: Page 12, Drawing 2 shows	maximum of 20 feet	in width in	crosscuts and entries.		•
Andrew Comments and the second of the second	en e	A CONTRACTOR OF STREET			

				See Continuation Form
8. Extended To A. Date Mo Da	Yr B, Time (24 Hr. Clock)		C. Vacated D. Termi	nated Z E Modified
Section IV-Inspection Data 9. Type of Inspection E01	10. Everit Number 6286	108		
11. Signature	AR Number 24675	t 12 Date Mo	Da Yr 13, Time (2 /18/2010	4 Hr. Clock) 1744
MSHA Form 7000-38, Mar 85 (revised)	240/3	<u> </u>	<u> </u>	

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Mine Citation/Order Continuation	U.S. Department of Labor Mine Safety and Health Administration			Selection (Selection)	
Section ISubsequent Action/Continuation Da	la:				
1. Subsequent Action 1a. Continuation	2 Dated Mo Da (Original Issue) 02/18/2	• • x:	3 Citation/ Order Number	8087734 - 0102	2
4. Served To Berman Cornett, Safety Director		5. Operate PERFO		AL COMPANY	
6. Mine UPPER BIG BRANCH MINE-S		7. Mine II	46-0843	6	Contractor)
Section II—Justification for Action	***************************************				•

Timbers have been set in the locations indicated by the citation and according to the approved Roof Control Plan on page 12, drawing 2.

						See Continuation Form
Section III-Subsequent Action Taken	1					
8. Extended To A. Date Mo Da	Yr	B. Time (24 Hr. Clock)		☐ C. Vacated	D. Terminated	☐ E. Modified
Section IV-Inspection Data						
9. Type of inspection E01	10. E	vent Number 6286108				
11. Signature Wat Ida Coll		AR Number 24765	12. Date	Mo Da Yr 02/19/2010	13, Time (24 Hr. Clo 1045	***
		[24 /63)	1	02/19/2010	1 1045	

†91000-VHS43-ct-14-cr-00244 Document 311-4 Filed 08/18/15 Page 154 of 156 PageID #: 5801

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (Confidential, Pre-decisional Information)

U.S. Department of Labor Mine Safety and Health Administration

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da	4	d d	
W	12		
~	Op.		

MINEID 46-08436 MSHA OFFICE Mr. HOPE	
MINENAME UPPER BIG BRANCH MINE COMPANY NAME PERFORMANCE COME COMPANY	
Citation/Order No. 808 17.44 Date 3/2 / 2010	a, managan katan kanan kana
ACCIDENT INFORMATION: Was this violation associated with an accident which caused an injury? YES: NO NO If yes: F-	etal? Non-fatal?
REVIEW CRITERIA: (Attach supplemental information if needed)	
1. Did the condition or practice cited create the presence of a high degree of risk to the health and/or safety of miners? —Yes	No. X
a). Who was exposed to the hazard? (Name and Occupation):	Dickens - Electrician
Lyes Ausseson-Foreman, Rodney Oseonone - Boiter, ALVIS ALDIAMAN - BOITE, ANDREW	
b) How were they exposed to the hazard? THEY WOULD BE WORKER IN CASE OPEN CROSS	
INOUGH AIR TO DIENTE GASES, Duer, ere.	
c) When and over what period of time did the exposure occur? on 3/2/16 from /236 - 1/10	
d) Is this first hand information? Yes X No [] If not, who provided the information? (Name and Occupation)	and sometimes of the state of t
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the violation?	Yes 🗹 No 🗌
a) Who had this knowledge? (Name and Title) FULL Andtecon - Section Foreman	
b) How was this knowledge evidenced? It was oncrows which watered Transcorp prices. And Course con Secreen, that wer fromen Are was an Section.	14 MISS INFAME
c) is this first hand information? Yes 🗵 No 🗌	
If not, who provided the information? (Name and Occupation)	<u> </u>
3. Any other pertinent information:	
INSPECTOR'S CONCLUSION: Based on this review, does this appear to be a possible knowing and/or willful violation of the Act or mandatory health or	safety standard? Yes No &
Inspector AR Number: 24675 Signature: A. K. S.	Date: 3/3/2010
Supervisor: Do you agree with the inspector's conclusion? Yes No	
Signature: Thomas Allows	
Million My co	Date: 3 - 32 - 10
PACCIFIE DECAMENDED ACTIONS	Date: 3 - 3 - 10
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action.	Date: 3 × 9 - 10
POSSIBLE RECOMMENDED ACTIONS: A. Conduct a special investigation. C. No further action. Assistant District Manager, Becommendation: (A or C from the list above)	Date: 3 × 32 - 10
A. Conduct a special investigation. C. No further action.	Date: 3-8-10
A. Conduct a special investigation. C. No further action. Assistant District Manager: Becommendation: (A or C from the list above) Signature:	A4.
A. Conduct a special investigation. C. No further action. Assistant District Manager, Becommendation: (A or C from the list above)	A4.
A. Conduct a special investigation. C. No further action. Assistant District Manager. Becommendation: (A or C from the list above) Signature: Supervisory Special Investigator. Recommendation: (A or C from the list above) Signature: Signature: A or C from the list above)	Date: "3-/1-/0
A. Conduct a special investigation. Assistant District Manager: Becommendation: (A or C from the list above) Signature: (A or C from the list above) Supervisory Special Investigator: Recommendation: (A or C from the list above) Signature: (A or C from the list above)	Date: "3-/1-/0
A. Conduct a special investigation. Assistant District Manager: Becommendation: (A or C from the list above) Signature: (A or C from the list above) Supervisory Special Investigator: Recommendation: (A or C from the list above) Signature: (A or C from the list above)	Date: "3-/1-/0
A. Conduct a special investigation. Assistant District Manager Becommendation: (A or C from the list above) Signature: (A or C from the list above) Supervisory Special investigator. Recommendation: (A or C from the list above) Signature: (A or C from the list above) Signature: (A or C from the list above) Signature: (A or C from the list above)	Date: 3-11-10
A. Conduct a special investigation. Assistant District Manager Becommendation: (A or C from the list above) Signature: (A or C from the list above) Supervisory Special investigator. Recommendation: (A or C from the list above) Signature: (A or C from the list above) Signature: (A or C from the list above) Signature: (A or C from the list above)	Date: "3-/1-/0
A. Conduct a special investigation. Assistant District Manager Becommendation: (A or C from the list above) Signature: (A or C from the list above) Supervisory Special investigator. Recommendation: (A or C from the list above) Signature: (A or C from the list above) Signature: (A or C from the list above) Signature: (A or C from the list above)	Date: "3-/1-/0
A Conduct a special investigation. Assistant District Manager Becommendation: (A or C from the list above) Signature: Supervisory Special Investigator Recommendation: (A or C from the list above) Signature: District Manager: (Clon/Decision: (4 or C from the list above) Signature: ADDITIONAL COMMENTS OR REMARKS: ADDITIONAL COMMENTS OR REMARKS:	Date: 3/16/10 Date: 3/16/10

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U.S. Department of Labor Mine Safety and Health Administration

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1.43	~(#)>
A 7 V	~///

1. Date	Mo Da Yr 03/02/2010	2. Time (24 Hr. Clock) 0110	3. Cilation/ Order No	unber 8087744
4. Served T Kyle And		oreman	5. Operator PERFORMANCE COAL COMP	ANY
6. Mine UPPER F	BIG BRANCH N	MNE-SOUTH	^{7. Mine ID} 46-08436	(Confractor)
8. Condition	or Practice			8a. Written Notice (103g)

The operator is not following the Ventilation Plan as approved by the District Manager on the No.1 section (MMU 029-0) under the Methane Dust Control, in that, the minimum amount of air in the last open crosscut is not maintained at 15,000 CFM. When checked with an anemometer only 7,448 CFM was found in the last open crosscut, 2 to 3 entry.

	-	•				See Con	linuation Form (MSH	A Form 7000-3a)
9. Violation A	A. Health Safety Other	B. Section of Act	7	C. Part/Section of Title 30 CFR	of .	75,370)(a)(1)	
9. Violation A. Health B. Section of Title 30 CFR 75.370(a)(1) Section I-respectors Evaluation 10. Gravity. A. Injury or Illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred 8. Injury or Illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal C. Significant and Substantial: Yes No D. Number of Persons Affected: 005 11. Negligence (check one) A. None B. Low C. Moderate D. Highly E. Reckless Disregard 12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Circler Safeguard Written Notice 14. Initial Action B. Order C. Sateguard D. Written Notice E. Citation Ross Reckless Disregard 14. Initial Action B. Order C. Sateguard D. Written Notice E. Citation Ross Reckless Ross Reckless Ross Reckless Reckless								
and the second second second	lness (has) (is):	No Likelihood	Ünlikely ∏	Reasonably	Likely 🕢	Highly Likely	☐ Occur	лед 🗀
		No Lost Worl	days 🗍 Lost (Norkdays Or Restr	fcted Duty	Permanent	ly Disabling 🔲	Fatal 🗸
C. Significant	t and Substantial	Yes 🔽	No 🗌	· ·	ده د ي دي د	D. Number of	Persons Affected	005
11. Negligence ((chéck one)	A. None 🗍	B. Low	C. Moderate	D. High	☑ E	. Reckless Disreg	ard 🔲
12. Type of Action	on 104(d)(2)	13. Type of Iss	uance (check one)	Citation 🗌	Order 🔽	Safeguard 🗌	Written Notice
		C. Saleguard [D. Written Notice		mber 8	082692	F. Dated	Mo Da Yr 03/17/2009
					open lin	e of cr	osscuts t	o the
16. Termination	Due A. Date	Mo Da Yr	B. Time (24 Hr. Cl	ock)		**		
Section III-Termin	ation Action						Tank Tank Tank	
17. Action to Tel	rminate							
								:
18. Terminated	A. Dale Mol	Da Yr B. Tin	ne (24 Hr. Clock				**************************************	
Section (V-Autom)	aled System Data					€ :		
		20. Event Numb	er 628610	8 2L.P	rimary or Mill			
22. Signature	Char K	r 54)			23. AR	Number 24	675

MSHA Form 7000 3 Apr 08 (revised)
In accordance with the provisions of the Small Business Regulatory Enforcement Falmess Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions: The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-734-734-3247), of white the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission:

Section II-Bullesquent Action to Continuation 2. Dated Mo Da Yr 3. Objection II 3. Supering and Action to Continuation 2. Dated Mo Da Yr 3. Objection II 3. Supering and Action to Continuation 3. Supering and Action to Continuation 3. Supering and Action 3. Supering and Acti	Mine Citation/Order Continuation			partment fety and F		or dministration	Ą	
Butter PERFORMANCE COAL COMPANY Mine in 46-08436 (Contractor)	1, Subsequent Action 1a, Continuation 2. Dated (Original Issue)	03/02/20	10	AND SECTION AND ADDRESS.	mber 8	087744 - 01		
E. Ming To 46-08436 (Contractor) Writtlation controls were checked and replaced. An air reading of 20,613 CFM was obtained in the last open crosscut. Section III-Subsequent Action Telepa					COAL	COMPANY		
Section III-Subsequent Action Takan	3. Mine			1:	27171 J 1. 2 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		(Confracto	ń
Section III-Subsequent Action Taken								
Section III-Subsequent Action Taken				aced.	An ai	r reading	of 20,6	13
Section III-Subsequent Action Taken			·	÷.				
Section III-Subsequent Action Taken			, 4					
Section III-Subsequent Action Taken								
Section III-Subsequent Action Taken			•				- J	
Section III-Subsequent Action Taken								
Section III-Subsequent Action Taken			• · · · · · · · · · · · · · · · · · · ·		·			
Section III-Subsequent Action Taken								
Section:III-Subsequent/Action Taken				· · · ·		·		
Section:III-Subsequent/Action Taken			e E					
Section III - Subsequent Action Taken								
					Andrews		See Continuati	on Form
		ick)		Thev	acaled	D. Terminated	∏ E. Modifie	ď
Section IV-lespection Data 9. Type of Inspection E01 10. Event Number 6286108	Section IV-Inspection Data				egarunin i Sistemia sure a			

MSHA Form 7000-8a; Mar 85 (revised)